

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 ARTICLE I. SHORT TITLE, PRIOR LAW, AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the
6 MC/DD Act.

7 Section 1-101.05. Prior law.

8 (a) This Act provides for the licensure of medically
9 complex for the developmentally disabled facilities. On and
10 after the effective date of this Act, long-term care for under
11 age 22 facilities shall be known and licensed as medically
12 complex for the developmentally disabled facilities under this
13 Act instead of the ID/DD Community Care Act. On the effective
14 date of this Act, any long-term care for under age 22 facility
15 that holds a valid license on the effective date of this Act
16 shall be granted a license as a medically complex for the
17 developmentally disabled facility and shall not be licensed as
18 a long-term care for under age 22 facility under the ID/DD
19 Community Care Act.

20 (b) If any other Act of the General Assembly changes, adds,
21 or repeals a provision of the ID/DD Community Care Act that is
22 the same as or substantially similar to a provision of this

1 Act, then that change, addition, or repeal in the ID/DD
2 Community Care Act shall be construed together with this Act
3 until July 1, 2015 and not thereafter.

4 (c) Nothing in this Act affects the validity or effect of
5 any finding, decision, or action made or taken by the
6 Department or the Director under the ID/DD Community Care Act
7 before the effective date of this Act with respect to a
8 facility subject to licensure under this Act. That finding,
9 decision, or action shall continue to apply to the facility on
10 and after the effective date of this Act. Any finding,
11 decision, or action with respect to the facility made or taken
12 on or after the effective date of this Act shall be made or
13 taken as provided in this Act.

14 Section 1-102. Definitions. For the purposes of this Act,
15 unless the context otherwise requires, the terms defined in
16 this Article have the meanings ascribed to them herein.

17 Section 1-103. Abuse. "Abuse" means any physical or mental
18 injury or sexual assault inflicted on a resident other than by
19 accidental means in a facility.

20 Section 1-104. Access. "Access" means the right to:

21 (1) Enter any facility;

22 (2) Communicate privately and without restriction with
23 any resident who consents to the communication;

1 (3) Seek consent to communicate privately and without
2 restriction with any resident;

3 (4) Inspect the clinical and other records of a
4 resident with the express written consent of the resident;
5 or

6 (5) Observe all areas of the facility except the living
7 area of any resident who protests the observation.

8 Section 1-105. Administrator. "Administrator" means a
9 person who is charged with the general administration and
10 supervision of a facility and licensed, if required, under the
11 Nursing Home Administrators Licensing and Disciplinary Act, as
12 now or hereafter amended.

13 Section 1-106. Affiliate. "Affiliate" means:

14 (1) With respect to a partnership, each partner
15 thereof.

16 (2) With respect to a corporation, each officer,
17 director and stockholder thereof.

18 (3) With respect to a natural person: any person
19 related in the first degree of kinship to that person; each
20 partnership and each partner thereof of which that person
21 or any affiliate of that person is a partner; and each
22 corporation in which that person or any affiliate of that
23 person is an officer, director or stockholder.

1 Section 1-107. Applicant. "Applicant" means any person
2 making application for a license.

3 Section 1-108.1. Complaint classification. "Complaint
4 classification" means the Department shall categorize reports
5 about conditions, care or services in a facility into one of
6 three groups after an investigation:

7 (1) "An invalid report" means any report made under
8 this Act for which it is determined after an investigation
9 that no credible evidence of abuse, neglect or other
10 deficiency relating to the complaint exists;

11 (2) "A valid report" means a report made under this Act
12 if an investigation determines that some credible evidence
13 of the alleged abuse, neglect or other deficiency relating
14 to the complaint exists; and

15 (3) "An undetermined report" means a report made under
16 this Act in which it was not possible to initiate or
17 complete an investigation on the basis of information
18 provided to the Department.

19 Section 1-109. Department. "Department" means the
20 Department of Public Health.

21 Section 1-110. Director. "Director" means the Director of
22 Public Health or his or her designee.

1 Section 1-111. Discharge. "Discharge" means the full
2 release of any resident from a facility.

3 Section 1-111.05. Distressed facility. "Distressed
4 facility" means a facility determined by the Department to be a
5 distressed facility pursuant to Section 3-304.2 of this Act.

6 Section 1-112. Emergency. "Emergency" means a situation,
7 physical condition or one or more practices, methods or
8 operations which present imminent danger of death or serious
9 physical or mental harm to residents of a facility.

10 Section 1-113. Facility. "MC/DD facility" or "facility"
11 means a medically complex for the developmentally disabled
12 facility, whether operated for profit or not, which provides,
13 through its ownership or management, personal care or nursing
14 for 3 or more persons not related to the applicant or owner by
15 blood or marriage.

16 "Facility" does not include the following:

17 (1) A home, institution, or other place operated by the
18 federal government or agency thereof, or by the State of
19 Illinois, other than homes, institutions, or other places
20 operated by or under the authority of the Illinois
21 Department of Veterans' Affairs;

22 (2) A hospital, sanitarium, or other institution whose
23 principal activity or business is the diagnosis, care, and

1 treatment of human illness through the maintenance and
2 operation as organized facilities therefore, which is
3 required to be licensed under the Hospital Licensing Act;

4 (3) Any "facility for child care" as defined in the
5 Child Care Act of 1969;

6 (4) Any "community living facility" as defined in the
7 Community Living Facilities Licensing Act;

8 (5) Any "community residential alternative" as defined
9 in the Community Residential Alternatives Licensing Act;

10 (6) Any nursing home or sanatorium operated solely by
11 and for persons who rely exclusively upon treatment by
12 spiritual means through prayer, in accordance with the
13 creed or tenets of any well recognized church or religious
14 denomination. However, such nursing home or sanatorium
15 shall comply with all local laws and rules relating to
16 sanitation and safety;

17 (7) Any facility licensed by the Department of Human
18 Services as a community-integrated living arrangement as
19 defined in the Community-Integrated Living Arrangements
20 Licensure and Certification Act;

21 (8) Any facility licensed under the Nursing Home Care
22 Act;

23 (9) Any ID/DD facility under the ID/DD Community Care
24 Act;

25 (10) Any "supportive residence" licensed under the
26 Supportive Residences Licensing Act;

1 (11) Any "supportive living facility" in good standing
2 with the program established under Section 5-5.01a of the
3 Illinois Public Aid Code, except only for purposes of the
4 employment of persons in accordance with Section 3-206.01;

5 (12) Any assisted living or shared housing
6 establishment licensed under the Assisted Living and
7 Shared Housing Act, except only for purposes of the
8 employment of persons in accordance with Section 3-206.01;

9 (13) An Alzheimer's disease management center
10 alternative health care model licensed under the
11 Alternative Health Care Delivery Act; or

12 (14) A home, institution, or other place operated by or
13 under the authority of the Illinois Department of Veterans'
14 Affairs.

15 Section 1-114. Guardian. "Guardian" means a person
16 appointed as a guardian of the person or guardian of the
17 estate, or both, of a resident under the "Probate Act of 1975",
18 as now or hereafter amended.

19 Section 1-114.001. Habilitation. "Habilitation" means an
20 effort directed toward increasing a person's level of physical,
21 mental, social, or economic functioning. Habilitation may
22 include, but is not limited to, diagnosis, evaluation, medical
23 services, residential care, day care, special living
24 arrangements, training, education, employment services,

1 protective services, and counseling.

2 Section 1-114.01. Identified offender. "Identified
3 offender" means a person who meets any of the following
4 criteria:

5 (1) Has been convicted of, found guilty of, adjudicated
6 delinquent for, found not guilty by reason of insanity for,
7 or found unfit to stand trial for any felony offense listed
8 in Section 25 of the Health Care Worker Background Check
9 Act, except for the following:

10 (i) a felony offense described in Section 10-5 of
11 the Nurse Practice Act;

12 (ii) a felony offense described in Section 4, 5, 6,
13 8, or 17.02 of the Illinois Credit Card and Debit Card
14 Act;

15 (iii) a felony offense described in Section 5, 5.1,
16 5.2, 7, or 9 of the Cannabis Control Act;

17 (iv) a felony offense described in Section 401,
18 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
19 Controlled Substances Act; and

20 (v) a felony offense described in the
21 Methamphetamine Control and Community Protection Act.

22 (2) Has been convicted of, adjudicated delinquent for,
23 found not guilty by reason of insanity for, or found unfit
24 to stand trial for, any sex offense as defined in
25 subsection (c) of Section 10 of the Sex Offender Management

1 Board Act.

2 (3) Is any other resident as determined by the
3 Department of State Police.

4 Section 1-114.1. Immediate family. "Immediate family"
5 means the spouse, an adult child, a parent, an adult brother or
6 sister, or an adult grandchild of a person.

7 Section 1-114.005. High-risk designation. "High-risk
8 designation" means a designation of a provision of the Illinois
9 Administrative Code that has been identified by the Department
10 through rulemaking to be inherently necessary to protect the
11 health, safety, and welfare of a resident.

12 Section 1-115. Licensee. "Licensee" means the individual
13 or entity licensed by the Department to operate the facility.

14 Section 1-116. Maintenance. "Maintenance" means food,
15 shelter and laundry services.

16 Section 1-116.5. Misappropriation of a resident's
17 property. "Misappropriation of a resident's property" means
18 the deliberate misplacement, exploitation, or wrongful
19 temporary or permanent use of a resident's belongings or money
20 without the resident's consent.

1 Section 1-117. Neglect. "Neglect" means a failure in a
2 facility to provide adequate medical or personal care or
3 maintenance, which failure results in physical or mental injury
4 to a resident or in the deterioration of a resident's physical
5 or mental condition.

6 Section 1-118. Nurse. "Nurse" means a registered nurse or a
7 licensed practical nurse as defined in the Nurse Practice Act.

8 Section 1-119. Owner. "Owner" means the individual,
9 partnership, corporation, association or other person who owns
10 a facility. In the event a facility is operated by a person who
11 leases the physical plant, which is owned by another person,
12 "owner" means the person who operates the facility, except that
13 if the person who owns the physical plant is an affiliate of
14 the person who operates the facility and has significant
15 control over the day to day operations of the facility, the
16 person who owns the physical plant shall incur jointly and
17 severally with the owner all liabilities imposed on an owner
18 under this Act.

19 Section 1-120. Personal care. "Personal care" means
20 assistance with meals, dressing, movement, bathing or other
21 personal needs or maintenance, or general supervision and
22 oversight of the physical and mental well being of an
23 individual, who is incapable of maintaining a private,

1 independent residence or who is incapable of managing his or
2 her person whether or not a guardian has been appointed for
3 such individual.

4 Section 1-120.3. Provisional admission period.
5 "Provisional admission period" means the time between the
6 admission of an identified offender as defined in Section
7 1-114.01 of this Act and 3 days following the admitting
8 facility's receipt of an Identified Offender Report and
9 Recommendation in accordance with Section 2-201.6 of this Act.

10 Section 1-121. Reasonable hour. "Reasonable hour" means
11 any time between the hours of 10 a.m. and 8 p.m. daily.

12 Section 1-122. Resident. "Resident" means a person
13 receiving personal or medical care, including, but not limited
14 to, habilitation, psychiatric services, therapeutic services,
15 and assistance with activities of daily living from a facility.

16 Section 1-123. Resident's representative. "Resident's
17 representative" means a person other than the owner, or an
18 agent or employee of a facility not related to the resident,
19 designated in writing by a resident to be his or her
20 representative, or the resident's guardian, or the parent of a
21 minor resident for whom no guardian has been appointed.

1 Section 1-125. Stockholder. "Stockholder" of a corporation
2 means any person who, directly or indirectly, beneficially
3 owns, holds or has the power to vote, at least 5% of any class
4 of securities issued by the corporation.

5 Section 1-125.1. Student intern. "Student intern" means
6 any person whose total term of employment in any facility
7 during any 12-month period is equal to or less than 90
8 continuous days, and whose term of employment is either:

9 (1) an academic credit requirement in a high school or
10 undergraduate institution, or

11 (2) immediately succeeds a full quarter, semester or
12 trimester of academic enrollment in either a high school or
13 undergraduate institution, provided that such person is
14 registered for another full quarter, semester or trimester
15 of academic enrollment in either a high school or
16 undergraduate institution which quarter, semester or
17 trimester will commence immediately following the term of
18 employment.

19 Section 1-126. Title XVIII. "Title XVIII" means Title XVIII
20 of the federal Social Security Act as now or hereafter amended.

21 Section 1-127. Title XIX. "Title XIX" means Title XIX of
22 the federal Social Security Act as now or hereafter amended.

1 Section 1-128. Transfer. "Transfer" means a change in
2 status of a resident's living arrangements from one facility to
3 another facility.

4 Section 1-128.5. Type "AA" violation. A "Type 'AA'
5 violation" means a violation of this Act or of the rules
6 promulgated thereunder that creates a condition or occurrence
7 relating to the operation and maintenance of a facility that
8 proximately caused a resident's death.

9 Section 1-129. Type "A" violation. A "Type 'A' violation"
10 means a violation of this Act or of the rules promulgated
11 thereunder which creates a condition or occurrence relating to
12 the operation and maintenance of a facility that (i) creates a
13 substantial probability that the risk of death or serious
14 mental or physical harm to a resident will result therefrom or
15 (ii) has resulted in actual physical or mental harm to a
16 resident.

17 Section 1-130. Type "B" violation. A "Type 'B' violation"
18 means a violation of this Act or of the rules promulgated
19 thereunder which (i) creates a condition or occurrence relating
20 to the operation and maintenance of a facility that is more
21 likely than not to cause more than minimal physical or mental
22 harm to a resident or (ii) is specifically designated as a Type
23 "B" violation in this Act.

1 Section 1-132. Type "C" violation. A "Type 'C' violation"
2 means a violation of this Act or of the rules promulgated
3 thereunder that creates a condition or occurrence relating to
4 the operation and maintenance of a facility that creates a
5 substantial probability that less than minimal physical or
6 mental harm to a resident will result therefrom.

7 ARTICLE II. RIGHTS AND RESPONSIBILITIES

8 PART 1. RESIDENT RIGHTS

9 Section 2-101. Constitutional and legal rights. No
10 resident shall be deprived of any rights, benefits, or
11 privileges guaranteed by law, the Constitution of the State of
12 Illinois, or the Constitution of the United States solely on
13 account of his or her status as a resident of a facility.

14 Section 2-101.1. Spousal impoverishment. All new residents
15 and their spouses shall be informed on admittance of their
16 spousal impoverishment rights as defined at Section 5-4 of the
17 Illinois Public Aid Code, as now or hereafter amended and at
18 Section 303 of Title III of the Medicare Catastrophic Coverage
19 Act of 1988 (P.L. 100-360).

20 Section 2-102. Financial affairs. A resident shall be

1 permitted to manage his or her own financial affairs unless he
2 or she or his or her guardian or if the resident is a minor, his
3 or her parent, authorizes the administrator of the facility in
4 writing to manage such resident's financial affairs under
5 Section 2-201 of this Act.

6 Section 2-103. Personal property. A resident shall be
7 permitted to retain and use or wear his or her personal
8 property in his or her immediate living quarters, unless deemed
9 medically inappropriate by a physician and so documented in the
10 resident's clinical record. If clothing is provided to the
11 resident by the facility, it shall be of a proper fit.

12 The facility shall provide adequate storage space for the
13 personal property of the resident. The facility shall provide a
14 means of safeguarding small items of value for its residents in
15 their rooms or in any other part of the facility so long as the
16 residents have daily access to such valuables. The facility
17 shall make reasonable efforts to prevent loss and theft of
18 residents' property. Those efforts shall be appropriate to the
19 particular facility and may include, but are not limited to,
20 staff training and monitoring, labeling property, and frequent
21 property inventories. The facility shall develop procedures
22 for investigating complaints concerning theft of residents'
23 property and shall promptly investigate all such complaints.

24 Section 2-104. Medical treatment; records.

1 (a) A resident shall be permitted to retain the services of
2 his or her own personal physician at his or her own expense or
3 under an individual or group plan of health insurance, or under
4 any public or private assistance program providing such
5 coverage. However, the facility is not liable for the
6 negligence of any such personal physician. Every resident shall
7 be permitted to obtain from his or her own physician or the
8 physician attached to the facility complete and current
9 information concerning his or her medical diagnosis, treatment
10 and prognosis in terms and language the resident can reasonably
11 be expected to understand. Every resident shall be permitted to
12 participate in the planning of his or her total care and
13 medical treatment to the extent that his or her condition
14 permits. No resident shall be subjected to experimental
15 research or treatment without first obtaining his or her
16 informed, written consent. The conduct of any experimental
17 research or treatment shall be authorized and monitored by an
18 institutional review board appointed by the Director. The
19 membership, operating procedures and review criteria for the
20 institutional review board shall be prescribed under rules and
21 regulations of the Department and shall comply with the
22 requirements for institutional review boards established by
23 the federal Food and Drug Administration. No person who has
24 received compensation in the prior 3 years from an entity that
25 manufactures, distributes, or sells pharmaceuticals,
26 biologics, or medical devices may serve on the institutional

1 review board.

2 The institutional review board may approve only research or
3 treatment that meets the standards of the federal Food and Drug
4 Administration with respect to (i) the protection of human
5 subjects and (ii) financial disclosure by clinical
6 investigators. The Office of State Long Term Care Ombudsman and
7 the State Protection and Advocacy organization shall be given
8 an opportunity to comment on any request for approval before
9 the board makes a decision. Those entities shall not be
10 provided information that would allow a potential human subject
11 to be individually identified, unless the board asks the
12 Ombudsman for help in securing information from or about the
13 resident. The board shall require frequent reporting of the
14 progress of the approved research or treatment and its impact
15 on residents, including immediate reporting of any adverse
16 impact to the resident, the resident's representative, the
17 Office of the State Long Term Care Ombudsman, and the State
18 Protection and Advocacy organization. The board may not approve
19 any retrospective study of the records of any resident about
20 the safety or efficacy of any care or treatment if the resident
21 was under the care of the proposed researcher or a business
22 associate when the care or treatment was given, unless the
23 study is under the control of a researcher without any business
24 relationship to any person or entity who could benefit from the
25 findings of the study.

26 No facility shall permit experimental research or

1 treatment to be conducted on a resident or give access to any
2 person or person's records for a retrospective study about the
3 safety or efficacy of any care or treatment without the prior
4 written approval of the institutional review board. No
5 administrator, or person licensed by the State to provide
6 medical care or treatment to any person may assist or
7 participate in any experimental research on or treatment of a
8 resident, including a retrospective study, that does not have
9 the prior written approval of the board. Such conduct shall be
10 grounds for professional discipline by the Department of
11 Financial and Professional Regulation.

12 The institutional review board may exempt from ongoing
13 review research or treatment initiated on a resident before the
14 individual's admission to a facility and for which the board
15 determines there is adequate ongoing oversight by another
16 institutional review board. Nothing in this Section shall
17 prevent a facility, any facility employee, or any other person
18 from assisting or participating in any experimental research on
19 or treatment of a resident if the research or treatment began
20 before the person's admission to a facility, until the board
21 has reviewed the research or treatment and decided to grant or
22 deny approval or to exempt the research or treatment from
23 ongoing review.

24 (b) All medical treatment and procedures shall be
25 administered as ordered by a physician. All new physician
26 orders shall be reviewed by the facility's director of nursing

1 or charge nurse designee within 24 hours after such orders have
2 been issued to assure facility compliance with such orders.

3 According to rules adopted by the Department, every woman
4 resident of child bearing age shall receive routine obstetrical
5 and gynecological evaluations as well as necessary prenatal
6 care.

7 (c) Every resident shall be permitted to refuse medical
8 treatment and to know the consequences of such action, unless
9 such refusal would be harmful to the health and safety of
10 others and such harm is documented by a physician in the
11 resident's clinical record. The resident's refusal shall free
12 the facility from the obligation to provide the treatment.

13 (d) Every resident, resident's guardian, or parent if the
14 resident is a minor shall be permitted to inspect and copy all
15 his or her clinical and other records concerning his or her
16 care and maintenance kept by the facility or by his or her
17 physician. The facility may charge a reasonable fee for
18 duplication of a record.

19 Section 2-104.1. Transfer of facility ownership after
20 license suspension or revocation. Whenever ownership of a
21 private facility is transferred to another private owner
22 following a final order for a suspension or revocation of the
23 facility's license, the new owner, if the Department so
24 determines, shall thoroughly evaluate the condition and needs
25 of each resident as if each resident were being newly admitted

1 to the facility. The evaluation shall include a review of the
2 medical record and the conduct of a physical examination of
3 each resident which shall be performed within 30 days after the
4 transfer of ownership.

5 Section 2-104.2. Do Not Resuscitate Orders. Every facility
6 licensed under this Act shall establish a policy for the
7 implementation of physician orders limiting resuscitation such
8 as those commonly referred to as "Do Not Resuscitate" orders.
9 This policy may only prescribe the format, method of
10 documentation and duration of any physician orders limiting
11 resuscitation. Any orders under this policy shall be honored by
12 the facility. The Department of Public Health Uniform DNR/POLST
13 form or a copy of that form or a previous version of the
14 uniform form shall be honored by the facility.

15 Section 2-105. Privacy. A resident shall be permitted
16 respect and privacy in his or her medical and personal care
17 program. Every resident's case discussion, consultation,
18 examination and treatment shall be confidential and shall be
19 conducted discreetly, and those persons not directly involved
20 in the resident's care must have the resident's permission to
21 be present.

22 Section 2-106. Restraints and confinements.

23 (a) For purposes of this Act:

1 (i) A physical restraint is any manual method or
2 physical or mechanical device, material, or equipment
3 attached or adjacent to a resident's body that the resident
4 cannot remove easily and restricts freedom of movement or
5 normal access to one's body. Devices used for positioning,
6 including but not limited to bed rails, gait belts, and
7 cushions, shall not be considered to be restraints for
8 purposes of this Section.

9 (ii) A chemical restraint is any drug used for
10 discipline or convenience and not required to treat medical
11 symptoms. The Department shall by rule, designate certain
12 devices as restraints, including at least all those devices
13 which have been determined to be restraints by the United
14 States Department of Health and Human Services in
15 interpretive guidelines issued for the purposes of
16 administering Titles XVIII and XIX of the Social Security
17 Act.

18 (b) Neither restraints nor confinements shall be employed
19 for the purpose of punishment or for the convenience of any
20 facility personnel. No restraints or confinements shall be
21 employed except as ordered by a physician who documents the
22 need for such restraints or confinements in the resident's
23 clinical record. Each facility licensed under this Act must
24 have a written policy to address the use of restraints and
25 seclusion. The Department shall establish by rule the
26 provisions that the policy must include, which, to the extent

1 practicable, should be consistent with the requirements for
2 participation in the federal Medicare program. Each policy
3 shall include periodic review of the use of restraints.

4 (c) A restraint may be used only with the informed consent
5 of the resident, the resident's guardian, or other authorized
6 representative. A restraint may be used only for specific
7 periods, if it is the least restrictive means necessary to
8 attain and maintain the resident's highest practicable
9 physical, mental or psychosocial well being, including brief
10 periods of time to provide necessary life saving treatment. A
11 restraint may be used only after consultation with appropriate
12 health professionals, such as occupational or physical
13 therapists, and a trial of less restrictive measures has led to
14 the determination that the use of less restrictive measures
15 would not attain or maintain the resident's highest practicable
16 physical, mental or psychosocial well being. However, if the
17 resident needs emergency care, restraints may be used for brief
18 periods to permit medical treatment to proceed unless the
19 facility has notice that the resident has previously made a
20 valid refusal of the treatment in question.

21 (d) A restraint may be applied only by a person trained in
22 the application of the particular type of restraint.

23 (e) Whenever a period of use of a restraint is initiated,
24 the resident shall be advised of his or her right to have a
25 person or organization of his or her choosing, including the
26 Guardianship and Advocacy Commission, notified of the use of

1 the restraint. A recipient who is under guardianship may
2 request that a person or organization of his or her choosing be
3 notified of the restraint, whether or not the guardian approves
4 the notice. If the resident so chooses, the facility shall make
5 the notification within 24 hours, including any information
6 about the period of time that the restraint is to be used.
7 Whenever the Guardianship and Advocacy Commission is notified
8 that a resident has been restrained, it shall contact the
9 resident to determine the circumstances of the restraint and
10 whether further action is warranted.

11 (f) Whenever a restraint is used on a resident whose
12 primary mode of communication is sign language, the resident
13 shall be permitted to have his or her hands free from restraint
14 for brief periods each hour, except when this freedom may
15 result in physical harm to the resident or others.

16 (g) The requirements of this Section are intended to
17 control in any conflict with the requirements of Sections 1-126
18 and 2-108 of the Mental Health and Developmental Disabilities
19 Code.

20 Section 2-106.1. Drug treatment.

21 (a) A resident shall not be given unnecessary drugs. An
22 unnecessary drug is any drug used in an excessive dose,
23 including in duplicative therapy; for excessive duration;
24 without adequate monitoring; without adequate indications for
25 its use; or in the presence of adverse consequences that

1 indicate the drugs should be reduced or discontinued. The
2 Department shall adopt, by rule, the standards for unnecessary
3 drugs contained in interpretive guidelines issued by the United
4 States Department of Health and Human Services for the purposes
5 of administering Titles XVIII and XIX of the Social Security
6 Act.

7 (b) Psychotropic medication shall not be administered
8 without the informed consent of the resident, the resident's
9 guardian, or other authorized representative. "Psychotropic
10 medication" means medication that is used for or listed as used
11 for antipsychotic, antidepressant, antimanic, or antianxiety
12 behavior modification or behavior management purposes in the
13 latest editions of the AMA Drug Evaluations or the Physician's
14 Desk Reference. The Department shall adopt, by rule, a protocol
15 specifying how informed consent for psychotropic medication
16 may be obtained or refused. The protocol shall require, at a
17 minimum, a discussion between (1) the resident or the
18 resident's authorized representative and (2) the resident's
19 physician, a registered pharmacist who is not a dispensing
20 pharmacist for the facility where the resident lives, or a
21 licensed nurse about the possible risks and benefits of a
22 recommended medication and the use of standardized consent
23 forms designated by the Department. Each form developed by the
24 Department (i) shall be written in plain language, (ii) shall
25 be able to be downloaded from the Department's official
26 website, (iii) shall include information specific to the

1 psychotropic medication for which consent is being sought, and
2 (iv) shall be used for every resident for whom psychotropic
3 drugs are prescribed. In addition to creating those forms, the
4 Department shall approve the use of any other informed consent
5 forms that meet criteria developed by the Department.

6 In addition to any other requirement prescribed by law, a
7 facility that is found to have violated this subsection or the
8 federal certification requirement that informed consent be
9 obtained before administering a psychotropic medication shall
10 for 3 years after the notice of violation be required to (A)
11 obtain the signatures of 2 licensed health care professionals
12 on every form purporting to give informed consent for the
13 administration of a psychotropic medication, certifying the
14 personal knowledge of each health care professional that the
15 consent was obtained in compliance with the requirements of
16 this subsection or (B) videotape or make a digital video record
17 of the procedures followed by the facility to comply with the
18 requirements of this subsection.

19 (c) The requirements of this Section are intended to
20 control in a conflict with the requirements of Sections 2-102
21 and 2-107.2 of the Mental Health and Developmental Disabilities
22 Code with respect to the administration of psychotropic
23 medication.

24 Section 2-106a. Resident identification wristlet. No
25 identification wristlets shall be employed except as ordered by

1 a physician who documents the need for such mandatory
2 identification in the resident's clinical record. When
3 identification bracelets are required, they must identify the
4 resident's name, and the name and address of the facility
5 issuing the identification wristlet.

6 Section 2-107. Abuse or neglect; duty to report. An owner,
7 licensee, administrator, employee or agent of a facility shall
8 not abuse or neglect a resident. It is the duty of any facility
9 employee or agent who becomes aware of such abuse or neglect to
10 report it as provided in the Abused and Neglected Long Term
11 Care Facility Residents Reporting Act.

12 Section 2-108. Communications; visits; married residents.
13 Every resident shall be permitted unimpeded, private and
14 uncensored communication of his or her choice by mail, public
15 telephone or visitation.

16 (a) The administrator shall ensure that correspondence is
17 conveniently received and mailed, and that telephones are
18 reasonably accessible.

19 (b) The administrator shall ensure that residents may have
20 private visits at any reasonable hour unless such visits are
21 not medically advisable for the resident as documented in the
22 resident's clinical record by the resident's physician.

23 (c) The administrator shall ensure that space for visits is
24 available and that facility personnel knock, except in an

1 emergency, before entering any resident's room.

2 (d) Unimpeded, private and uncensored communication by
3 mail, public telephone and visitation may be reasonably
4 restricted by a physician only in order to protect the resident
5 or others from harm, harassment or intimidation, provided that
6 the reason for any such restriction is placed in the resident's
7 clinical record by the physician and that notice of such
8 restriction shall be given to all residents upon admission.
9 However, all letters addressed by a resident to the Governor,
10 members of the General Assembly, Attorney General, judges,
11 state's attorneys, officers of the Department, or licensed
12 attorneys at law shall be forwarded at once to the persons to
13 whom they are addressed without examination by facility
14 personnel. Letters in reply from the officials and attorneys
15 mentioned above shall be delivered to the recipient without
16 examination by facility personnel.

17 (e) The administrator shall ensure that married residents
18 residing in the same facility be allowed to reside in the same
19 room within the facility unless there is no room available in
20 the facility or it is deemed medically inadvisable by the
21 residents' attending physician and so documented in the
22 residents' medical records.

23 Section 2-109. Religion. A resident shall be permitted the
24 free exercise of religion. Upon a resident's request, and if
25 necessary at the resident's expense, the administrator shall

1 make arrangements for a resident's attendance at religious
2 services of the resident's choice. However, no religious
3 beliefs or practices, or attendance at religious services, may
4 be imposed upon any resident.

5 Section 2-110. Access to residents.

6 (a) Any employee or agent of a public agency, any
7 representative of a community legal services program or any
8 other member of the general public shall be permitted access at
9 reasonable hours to any individual resident of any facility,
10 but only if there is neither a commercial purpose nor effect to
11 such access and if the purpose is to do any of the following:

12 (1) Visit, talk with and make personal, social and
13 legal services available to all residents;

14 (2) Inform residents of their rights and entitlements
15 and their corresponding obligations, under federal and
16 State laws, by means of educational materials and
17 discussions in groups and with individual residents;

18 (3) Assist residents in asserting their legal rights
19 regarding claims for public assistance, medical assistance
20 and social security benefits, as well as in all other
21 matters in which residents are aggrieved. Assistance may
22 include counseling and litigation; or

23 (4) Engage in other methods of asserting, advising and
24 representing residents so as to extend to them full
25 enjoyment of their rights.

1 (a-5) If a resident of a licensed facility is an identified
2 offender, any federal, State, or local law enforcement officer
3 or county probation officer shall be permitted reasonable
4 access to the individual resident to verify compliance with the
5 requirements of the Sex Offender Registration Act or to verify
6 compliance with applicable terms of probation, parole,
7 aftercare release, or mandatory supervised release.

8 (b) All persons entering a facility under this Section
9 shall promptly notify appropriate facility personnel of their
10 presence. They shall, upon request, produce identification to
11 establish their identity. No such person shall enter the
12 immediate living area of any resident without first identifying
13 himself or herself and then receiving permission from the
14 resident to enter. The rights of other residents present in the
15 room shall be respected. A resident may terminate at any time a
16 visit by a person having access to the resident's living area
17 under this Section.

18 (c) This Section shall not limit the power of the
19 Department or other public agency otherwise permitted or
20 required by law to enter and inspect a facility.

21 (d) Notwithstanding paragraph (a) of this Section, the
22 administrator of a facility may refuse access to the facility
23 to any person if the presence of that person in the facility
24 would be injurious to the health and safety of a resident or
25 would threaten the security of the property of a resident or
26 the facility, or if the person seeks access to the facility for

1 commercial purposes. Any person refused access to a facility
2 may within 10 days request a hearing under Section 3-703. In
3 that proceeding, the burden of proof as to the right of the
4 facility to refuse access under this Section shall be on the
5 facility.

6 Section 2-111. Discharge. A resident may be discharged from
7 a facility after he or she gives the administrator, a
8 physician, or a nurse of the facility written notice of his or
9 her desire to be discharged. If a guardian has been appointed
10 for a resident or if the resident is a minor, the resident
11 shall be discharged upon written consent of his or her guardian
12 or if the resident is a minor, his or her parent unless there
13 is a court order to the contrary. In such cases, upon the
14 resident's discharge, the facility is relieved from any
15 responsibility for the resident's care, safety or well being.

16 Section 2-112. Grievances. A resident shall be permitted to
17 present grievances on behalf of himself or herself or others to
18 the administrator, the MC/DD Facility Advisory Board
19 established under Section 2-204 of this Act, the residents'
20 advisory council, State governmental agencies or other persons
21 without threat of discharge or reprisal in any form or manner
22 whatsoever. The administrator shall provide all residents or
23 their representatives with the name, address, and telephone
24 number of the appropriate State governmental office where

1 complaints may be lodged.

2 Section 2-113. Labor. A resident may refuse to perform
3 labor for a facility.

4 Section 2-114. Unlawful discrimination. No resident shall
5 be subjected to unlawful discrimination as defined in Section
6 1-103 of the Illinois Human Rights Act by any owner, licensee,
7 administrator, employee, or agent of a facility. Unlawful
8 discrimination does not include an action by any owner,
9 licensee, administrator, employee, or agent of a facility that
10 is required by this Act or rules adopted under this Act.

11 Section 2-115. Right to notification of violations.
12 Residents and their guardians or other resident
13 representatives, if any, shall be notified of any violation of
14 this Act or the rules promulgated thereunder pursuant to
15 Section 2-217 of this Act, or of violations of the requirements
16 of Titles XVIII or XIX of the Social Security Act or rules
17 promulgated thereunder, with respect to the health, safety, or
18 welfare of the resident.

19 PART 2. RESPONSIBILITIES

20 Section 2-201. Residents' funds. To protect the residents'
21 funds, the facility:

1 (1) Shall at the time of admission provide, in order of
2 priority, each resident, or the resident's guardian, if any, or
3 the resident's representative, if any, or the resident's
4 immediate family member, if any, with a written statement
5 explaining to the resident and to the resident's spouse (a)
6 their spousal impoverishment rights, as defined at Section 5-4
7 of the Illinois Public Aid Code, and at Section 303 of Title
8 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.
9 100-360), and (b) the resident's rights regarding personal
10 funds and listing the services for which the resident will be
11 charged. The facility shall obtain a signed acknowledgment from
12 each resident or the resident's guardian, if any, or the
13 resident's representative, if any, or the resident's immediate
14 family member, if any, that such person has received the
15 statement.

16 (2) May accept funds from a resident for safekeeping and
17 managing, if it receives written authorization from, in order
18 of priority, the resident or the resident's guardian, if any,
19 or the resident's representative, if any, or the resident's
20 immediate family member, if any; such authorization shall be
21 attested to by a witness who has no pecuniary interest in the
22 facility or its operations, and who is not connected in any way
23 to facility personnel or the administrator in any manner
24 whatsoever.

25 (3) Shall maintain and allow, in order of priority, each
26 resident or the resident's guardian, if any, or the resident's

1 representative, if any, or the resident's immediate family
2 member, if any, access to a written record of all financial
3 arrangements and transactions involving the individual
4 resident's funds.

5 (4) Shall provide, in order of priority, each resident, or
6 the resident's guardian, if any, or the resident's
7 representative, if any, or the resident's immediate family
8 member, if any, with a written itemized statement at least
9 quarterly, of all financial transactions involving the
10 resident's funds.

11 (5) Shall purchase a surety bond, or otherwise provide
12 assurance satisfactory to the Departments of Public Health and
13 Financial and Professional Regulation that all residents'
14 personal funds deposited with the facility are secure against
15 loss, theft, and insolvency.

16 (6) Shall keep any funds received from a resident for
17 safekeeping in an account separate from the facility's funds,
18 and shall at no time withdraw any part or all of such funds for
19 any purpose other than to return the funds to the resident upon
20 the request of the resident or any other person entitled to
21 make such request, to pay the resident his or her allowance, or
22 to make any other payment authorized by the resident or any
23 other person entitled to make such authorization.

24 (7) Shall deposit any funds received from a resident in
25 excess of \$100 in an interest bearing account insured by
26 agencies of, or corporations chartered by, the State or federal

1 government. The account shall be in a form which clearly
2 indicates that the facility has only a fiduciary interest in
3 the funds and any interest from the account shall accrue to the
4 resident. The facility may keep up to \$100 of a resident's
5 money in a non-interest-bearing account or petty cash fund, to
6 be readily available for the resident's current expenditures.

7 (8) Shall return to the resident, or the person who
8 executed the written authorization required in subsection (2)
9 of this Section, upon written request, all or any part of the
10 resident's funds given the facility for safekeeping, including
11 the interest accrued from deposits.

12 (9) Shall (a) place any monthly allowance to which a
13 resident is entitled in that resident's personal account, or
14 give it to the resident, unless the facility has written
15 authorization from the resident or the resident's guardian or
16 if the resident is a minor, his parent, to handle it
17 differently, (b) take all steps necessary to ensure that a
18 personal needs allowance that is placed in a resident's
19 personal account is used exclusively by the resident or for the
20 benefit of the resident, and (c) where such funds are withdrawn
21 from the resident's personal account by any person other than
22 the resident, require such person to whom funds constituting
23 any part of a resident's personal needs allowance are released,
24 to execute an affidavit that such funds shall be used
25 exclusively for the benefit of the resident.

26 (10) Unless otherwise provided by State law, upon the death

1 of a resident, shall provide the executor or administrator of
2 the resident's estate with a complete accounting of all the
3 resident's personal property, including any funds of the
4 resident being held by the facility.

5 (11) If an adult resident is incapable of managing his or
6 her funds and does not have a resident's representative,
7 guardian, or an immediate family member, shall notify the
8 Office of the State Guardian of the Guardianship and Advocacy
9 Commission.

10 (12) If the facility is sold, shall provide the buyer with
11 a written verification by a public accountant of all residents'
12 monies and properties being transferred, and obtain a signed
13 receipt from the new owner.

14 Section 2-201.5. Screening prior to admission.

15 (a) All persons age 18 or older seeking admission to a
16 facility must be screened to determine the need for facility
17 services prior to being admitted, regardless of income, assets,
18 or funding source. In addition, any person who seeks to become
19 eligible for medical assistance from the Medical Assistance
20 Program under the Illinois Public Aid Code to pay for services
21 while residing in a facility must be screened prior to
22 receiving those benefits. Screening for facility services
23 shall be administered through procedures established by
24 administrative rule. Screening may be done by agencies other
25 than the Department as established by administrative rule.

1 (a-1) Any screening shall also include an evaluation of
2 whether there are residential supports and services or an array
3 of community services that would enable the person to live in
4 the community. The person shall be told about the existence of
5 any such services that would enable the person to live safely
6 and humanely in the least restrictive environment, that is
7 appropriate, that the individual or guardian chooses, and the
8 person shall be given the assistance necessary to avail himself
9 or herself of any available services.

10 (b) In addition to the screening required by subsection
11 (a), a facility shall, within 24 hours after admission, request
12 a criminal history background check pursuant to the Uniform
13 Conviction Information Act for all persons age 18 or older
14 seeking admission to the facility. Background checks conducted
15 pursuant to this Section shall be based on the resident's name,
16 date of birth, and other identifiers as required by the
17 Department of State Police. If the results of the background
18 check are inconclusive, the facility shall initiate a
19 fingerprint-based check, unless the fingerprint-based check is
20 waived by the Director of Public Health based on verification
21 by the facility that the resident is completely immobile or
22 that the resident meets other criteria related to the
23 resident's health or lack of potential risk which may be
24 established by Departmental rule. A waiver issued pursuant to
25 this Section shall be valid only while the resident is immobile
26 or while the criteria supporting the waiver exist. The facility

1 shall provide for or arrange for any required fingerprint-based
2 checks. If a fingerprint-based check is required, the facility
3 shall arrange for it to be conducted in a manner that is
4 respectful of the resident's dignity and that minimizes any
5 emotional or physical hardship to the resident.

6 (c) If the results of a resident's criminal history
7 background check reveal that the resident is an identified
8 offender as defined in Section 1-114.01 of this Act, the
9 facility shall do the following:

10 (1) Immediately notify the Department of State Police,
11 in the form and manner required by the Department of State
12 Police, in collaboration with the Department of Public
13 Health, that the resident is an identified offender.

14 (2) Within 72 hours, arrange for a fingerprint-based
15 criminal history record inquiry to be requested on the
16 identified offender resident. The inquiry shall be based on
17 the subject's name, sex, race, date of birth, fingerprint
18 images, and other identifiers required by the Department of
19 State Police. The inquiry shall be processed through the
20 files of the Department of State Police and the Federal
21 Bureau of Investigation to locate any criminal history
22 record information that may exist regarding the subject.
23 The Federal Bureau of Investigation shall furnish to the
24 Department of State Police, pursuant to an inquiry under
25 this paragraph (2), any criminal history record
26 information contained in its files. The facility shall

1 comply with all applicable provisions contained in the
2 Uniform Conviction Information Act. All name-based and
3 fingerprint-based criminal history record inquiries shall
4 be submitted to the Department of State Police
5 electronically in the form and manner prescribed by the
6 Department of State Police. The Department of State Police
7 may charge the facility a fee for processing name-based and
8 fingerprint-based criminal history record inquiries. The
9 fee shall be deposited into the State Police Services Fund.
10 The fee shall not exceed the actual cost of processing the
11 inquiry.

12 (d) The Department shall develop and maintain a
13 de-identified database of residents who have injured facility
14 staff, facility visitors, or other residents, and the attendant
15 circumstances, solely for the purposes of evaluating and
16 improving resident pre-screening and assessment procedures
17 (including the Criminal History Report prepared under Section
18 2-201.6 of this Act) and the adequacy of Department
19 requirements concerning the provision of care and services to
20 residents. A resident shall not be listed in the database until
21 a Department survey confirms the accuracy of the listing. The
22 names of persons listed in the database and information that
23 would allow them to be individually identified shall not be
24 made public. Neither the Department nor any other agency of
25 State government may use information in the database to take
26 any action against any individual, licensee, or other entity

1 unless the Department or agency receives the information
2 independent of this subsection (d). All information collected,
3 maintained, or developed under the authority of this subsection
4 (d) for the purposes of the database maintained under this
5 subsection (d) shall be treated in the same manner as
6 information that is subject to Part 21 of Article VIII of the
7 Code of Civil Procedure.

8 Section 2-201.6. Criminal History Report.

9 (a) The Department of State Police shall prepare a Criminal
10 History Report when it receives information, through the
11 criminal history background check required pursuant to
12 subsection (c) of Section 2-201.5 or through any other means,
13 that a resident of a facility is an identified offender.

14 (b) The Department of State Police shall complete the
15 Criminal History Report within 10 business days after receiving
16 any information described under subsection (a) of this Act that
17 a resident is an identified offender.

18 (c) The Criminal History Report shall include, but not be
19 limited to, all of the following:

20 (1) Copies of the identified offender's parole,
21 mandatory supervised release, or probation orders.

22 (2) An interview with the identified offender.

23 (3) A detailed summary of the entire criminal history
24 of the offender, including arrests, convictions, and the
25 date of the identified offender's last conviction relative

1 to the date of admission to a facility.

2 (4) If the identified offender is a convicted or
3 registered sex offender, then a review of any and all sex
4 offender evaluations conducted on that offender. If there
5 is no sex offender evaluation available, then the
6 Department of State Police shall arrange, through the
7 Department of Public Health, for a sex offender evaluation
8 to be conducted on the identified offender. If the
9 convicted or registered sex offender is under supervision
10 by the Illinois Department of Corrections or a county
11 probation department, then the sex offender evaluation
12 shall be arranged by and at the expense of the supervising
13 agency. All evaluations conducted on convicted or
14 registered sex offenders under this Act shall be conducted
15 by sex offender evaluators approved by the Sex Offender
16 Management Board.

17 (d) The Department of State Police shall provide the
18 Criminal History Report to a licensed forensic psychologist.
19 The licensed forensic psychologist shall prepare an Identified
20 Offender Report and Recommendation after (i) consideration of
21 the Criminal History Report, (ii) consultation with the
22 facility administrator or the facility medical director, or
23 both, regarding the mental and physical condition of the
24 identified offender, and (iii) reviewing the facility's file on
25 the identified offender, including all incident reports, all
26 information regarding medication and medication compliance,

1 and all information regarding previous discharges or transfers
2 from other facilities. The Identified Offender Report and
3 Recommendation shall detail whether and to what extent the
4 identified offender's criminal history necessitates the
5 implementation of security measures within the facility. If the
6 identified offender is a convicted or registered sex offender,
7 or if the Identified Offender Report and Recommendation reveals
8 that the identified offender poses a significant risk of harm
9 to others within the facility, then the offender shall be
10 required to have his or her own room within the facility.

11 (e) The licensed forensic psychologist shall complete the
12 Identified Offender Report and Recommendation within 14
13 business days after receiving the Criminal History Report and
14 shall promptly provide the Identified Offender Report and
15 Recommendation to the Department of State Police, which shall
16 provide the Identified Offender Report and Recommendation to
17 the following:

18 (1) The facility within which the identified offender
19 resides.

20 (2) The Chief of Police of the municipality in which
21 the facility is located.

22 (3) The State of Illinois Long Term Care Ombudsman.

23 (4) The Department of Public Health.

24 (f) The Department of Public Health shall keep a continuing
25 record of all residents determined to be identified offenders
26 as defined in Section 1-114.01 and shall report the number of

1 identified offender residents annually to the General
2 Assembly.

3 (g) The facility shall incorporate the Identified Offender
4 Report and Recommendation into the identified offender's
5 individual program plan created pursuant to 42 CFR 483.440(c).

6 (h) If, based on the Identified Offender Report and
7 Recommendation, a facility determines that it cannot manage the
8 identified offender resident safely within the facility, then
9 it shall commence involuntary transfer or discharge
10 proceedings pursuant to Section 3-402.

11 (i) Except for willful and wanton misconduct, any person
12 authorized to participate in the development of a Criminal
13 History Report or Identified Offender Report and
14 Recommendation is immune from criminal or civil liability for
15 any acts or omissions as the result of his or her good faith
16 effort to comply with this Section.

17 Section 2-202. Contract required.

18 (a) Before a person is admitted to a facility, or at the
19 expiration of the period of previous contract, or when the
20 source of payment for the resident's care changes from private
21 to public funds or from public to private funds, a written
22 contract shall be executed between a licensee and the following
23 in order of priority:

24 (1) the person, or if the person is a minor, his parent
25 or guardian; or

1 (2) the person's guardian, if any, or agent, if any, as
2 defined in Section 2-3 of the Illinois Power of Attorney
3 Act; or

4 (3) a member of the person's immediate family.

5 An adult person shall be presumed to have the capacity to
6 contract for admission to a facility unless he or she has been
7 adjudicated a "disabled person" within the meaning of Section
8 11a-2 of the Probate Act of 1975, or unless a petition for such
9 an adjudication is pending in a circuit court of Illinois.

10 If there is no guardian, agent or member of the person's
11 immediate family available, able or willing to execute the
12 contract required by this Section and a physician determines
13 that a person is so disabled as to be unable to consent to
14 placement in a facility, or if a person has already been found
15 to be a "disabled person", but no order has been entered
16 allowing residential placement of the person, that person may
17 be admitted to a facility before the execution of a contract
18 required by this Section; provided that a petition for
19 guardianship or for modification of guardianship is filed
20 within 15 days of the person's admission to a facility, and
21 provided further that such a contract is executed within 10
22 days of the disposition of the petition.

23 No adult shall be admitted to a facility if he or she
24 objects, orally or in writing, to such admission, except as
25 otherwise provided in Chapters III and IV of the Mental Health
26 and Developmental Disabilities Code or Section 11a-14.1 of the

1 Probate Act of 1975.

2 Before a licensee enters a contract under this Section, it
3 shall provide the prospective resident and his or her guardian,
4 if any, with written notice of the licensee's policy regarding
5 discharge of a resident whose private funds for payment of care
6 are exhausted.

7 (b) A resident shall not be discharged or transferred at
8 the expiration of the term of a contract, except as provided in
9 Sections 3-401 through 3-423.

10 (c) At the time of the resident's admission to the
11 facility, a copy of the contract shall be given to the
12 resident, his or her guardian, if any, and any other person who
13 executed the contract.

14 (d) A copy of the contract for a resident who is supported
15 by nonpublic funds other than the resident's own funds shall be
16 made available to the person providing the funds for the
17 resident's support.

18 (e) The original or a copy of the contract shall be
19 maintained in the facility and be made available upon request
20 to representatives of the Department and the Department of
21 Healthcare and Family Services.

22 (f) The contract shall be written in clear and unambiguous
23 language and shall be printed in not less than 12-point type.
24 The general form of the contract shall be prescribed by the
25 Department.

26 (g) The contract shall specify:

- 1 (1) the term of the contract;
- 2 (2) the services to be provided under the contract and
3 the charges for the services;
- 4 (3) the services that may be provided to supplement the
5 contract and the charges for the services;
- 6 (4) the sources liable for payments due under the
7 contract;
- 8 (5) the amount of deposit paid; and
- 9 (6) the rights, duties and obligations of the resident,
10 except that the specification of a resident's rights may be
11 furnished on a separate document which complies with the
12 requirements of Section 2-211.

13 (h) The contract shall designate the name of the resident's
14 representative, if any. The resident shall provide the facility
15 with a copy of the written agreement between the resident and
16 the resident's representative which authorizes the resident's
17 representative to inspect and copy the resident's records and
18 authorizes the resident's representative to execute the
19 contract on behalf of the resident required by this Section.

20 (i) The contract shall provide that if the resident is
21 compelled by a change in physical or mental health to leave the
22 facility, the contract and all obligations under it shall
23 terminate on 7 days' notice. No prior notice of termination of
24 the contract shall be required, however, in the case of a
25 resident's death. The contract shall also provide that in all
26 other situations, a resident may terminate the contract and all

1 obligations under it with 30 days' notice. All charges shall be
2 prorated as of the date on which the contract terminates, and,
3 if any payments have been made in advance, the excess shall be
4 refunded to the resident. This provision shall not apply to
5 life care contracts through which a facility agrees to provide
6 maintenance and care for a resident throughout the remainder of
7 his life nor to continuing care contracts through which a
8 facility agrees to supplement all available forms of financial
9 support in providing maintenance and care for a resident
10 throughout the remainder of his or her life.

11 (j) In addition to all other contract specifications
12 contained in this Section admission contracts shall also
13 specify:

14 (1) whether the facility accepts Medicaid clients;

15 (2) whether the facility requires a deposit of the
16 resident or his or her family prior to the establishment of
17 Medicaid eligibility;

18 (3) in the event that a deposit is required, a clear
19 and concise statement of the procedure to be followed for
20 the return of such deposit to the resident or the
21 appropriate family member or guardian of the person; and

22 (4) that all deposits made to a facility by a resident,
23 or on behalf of a resident, shall be returned by the
24 facility within 30 days of the establishment of Medicaid
25 eligibility, unless such deposits must be drawn upon or
26 encumbered in accordance with Medicaid eligibility

1 requirements established by the Department of Healthcare
2 and Family Services.

3 (k) It shall be a business offense for a facility to
4 knowingly and intentionally both retain a resident's deposit
5 and accept Medicaid payments on behalf of that resident.

6 Section 2-203. Residents' advisory council. Each facility
7 shall establish a residents' advisory council. The
8 administrator shall designate a member of the facility staff to
9 coordinate the establishment of, and render assistance to, the
10 council.

11 (a) The composition of the residents' advisory council
12 shall be specified by Department regulation, but no employee or
13 affiliate of a facility shall be a member of any council.

14 (b) The council shall meet at least once each month with
15 the staff coordinator who shall provide assistance to the
16 council in preparing and disseminating a report of each meeting
17 to all residents, the administrator, and the staff.

18 (c) Records of the council meetings will be maintained in
19 the office of the administrator.

20 (d) The residents' advisory council may communicate to the
21 administrator the opinions and concerns of the residents. The
22 council shall review procedures for implementing resident
23 rights, facility responsibilities and make recommendations for
24 changes or additions which will strengthen the facility's
25 policies and procedures as they affect residents' rights and

1 facility responsibilities.

2 (e) The council shall be a forum for:

3 (1) Obtaining and disseminating information;

4 (2) Soliciting and adopting recommendations for
5 facility programing and improvements; and

6 (3) Early identification and for recommending orderly
7 resolution of problems.

8 (f) The council may present complaints as provided in
9 Section 3-702 on behalf of a resident to the Department, the
10 MC/DD Facility Advisory Board established under Section 2-204
11 of this Act or to any other person it considers appropriate.

12 Section 2-204. MC/DD Facility Advisory Board. The Director
13 shall appoint a MC/DD Facility Advisory Board to consult with
14 the Department and the residents' advisory councils created
15 under Section 2-203.

16 (a) The Advisory Board shall be composed of the following
17 persons:

18 (1) the Director who shall serve as chairperson, ex
19 officio, and nonvoting;

20 (2) one representative each of the Department of
21 Healthcare and Family Services, the Department of Human
22 Services, and the Office of the State Fire Marshal, all
23 nonvoting members;

24 (3) one member who shall be a physician licensed to
25 practice medicine in all its branches;

1 (4) one member who shall be a behavioral specialist
2 selected from the recommendations of the Department of
3 Human Services;

4 (5) three members who shall be selected from the
5 recommendations by organizations whose membership consists
6 of facilities;

7 (6) two members who shall represent the general public
8 who are not members of a residents' advisory council
9 established under Section 2-203 and who have no
10 responsibility for management or formation of policy or
11 financial interest in a facility;

12 (7) one member who is a member of a residents' advisory
13 council established under Section 2-203 and is capable of
14 actively participating on the Advisory Board; and

15 (8) one member who shall be selected from the
16 recommendations of consumer organizations that engage
17 solely in advocacy or legal representation on behalf of
18 residents and their immediate families.

19 (b) The Advisory Board shall meet as frequently as the
20 chairperson deems necessary, but not less than 4 times each
21 year. Upon request by 4 or more members, the chairperson shall
22 call a meeting of the Advisory Board. The affirmative vote of 6
23 members of the Advisory Board shall be necessary for Advisory
24 Board action. A member of the Advisory Board may designate a
25 replacement to serve at the Advisory Board meeting and vote in
26 place of the member by submitting a letter of designation to

1 the chairperson prior to or at the Advisory Board meeting. The
2 Advisory Board members shall be reimbursed for their actual
3 expenses incurred in the performance of their duties.

4 (c) The Advisory Board shall advise the Department of
5 Public Health on all aspects of its responsibilities under this
6 Act, including the format and content of any rules promulgated
7 by the Department of Public Health. Any such rules, except
8 emergency rules promulgated pursuant to Section 5-45 of the
9 Illinois Administrative Procedure Act, promulgated without
10 obtaining the advice of the Advisory Board are null and void.
11 If the Department fails to follow the advice of the Advisory
12 Board, the Department shall, prior to the promulgation of such
13 rules, transmit a written explanation of the reason therefor to
14 the Advisory Board. During its review of rules, the Advisory
15 Board shall analyze the economic and regulatory impact of those
16 rules. If the Advisory Board, having been asked for its advice,
17 fails to advise the Department within 90 days, the rules shall
18 be considered acted upon.

19 Section 2-205. Disclosure of information to public. The
20 following information is subject to disclosure to the public
21 from the Department or the Department of Healthcare and Family
22 Services:

23 (1) Information submitted under Sections 3-103 and
24 3-207 except information concerning the remuneration of
25 personnel licensed, registered, or certified by the

1 Department of Financial and Professional Regulation (as
2 successor to the Department of Professional Regulation)
3 and monthly charges for an individual private resident;

4 (2) Records of license and certification inspections,
5 surveys, and evaluations of facilities, other reports of
6 inspections, surveys, and evaluations of resident care,
7 whether a facility is designated a distressed facility and
8 the basis for the designation, and reports concerning a
9 facility prepared pursuant to Titles XVIII and XIX of the
10 Social Security Act, subject to the provisions of the
11 Social Security Act;

12 (3) Cost and reimbursement reports submitted by a
13 facility under Section 3-208, reports of audits of
14 facilities, and other public records concerning costs
15 incurred by, revenues received by, and reimbursement of
16 facilities; and

17 (4) Complaints filed against a facility and complaint
18 investigation reports, except that a complaint or
19 complaint investigation report shall not be disclosed to a
20 person other than the complainant or complainant's
21 representative before it is disclosed to a facility under
22 Section 3-702, and, further, except that a complainant or
23 resident's name shall not be disclosed except under Section
24 3-702. The Department shall disclose information under
25 this Section in accordance with provisions for inspection
26 and copying of public records required by the Freedom of

1 Information Act. However, the disclosure of information
2 described in subsection (1) shall not be restricted by any
3 provision of the Freedom of Information Act.

4 Section 2-206. Confidentiality of records.

5 (a) The Department shall respect the confidentiality of a
6 resident's record and shall not divulge or disclose the
7 contents of a record in a manner which identifies a resident,
8 except upon a resident's death to a relative or guardian, or
9 under judicial proceedings. This Section shall not be construed
10 to limit the right of a resident to inspect or copy the
11 resident's records.

12 (b) Confidential medical, social, personal, or financial
13 information identifying a resident shall not be available for
14 public inspection in a manner which identifies a resident.

15 Section 2-207. Directories for public health regions;
16 information concerning facility costs and policies.

17 (a) Each year the Department shall publish a Directory for
18 each public health region listing facilities to be made
19 available to the public and be available at all Department
20 offices. The Department may charge a fee for the Directory. The
21 Directory shall contain, at a minimum, the following
22 information:

23 (1) The name and address of the facility;

24 (2) The number and type of licensed beds;

- 1 (3) The name of the cooperating hospital, if any;
- 2 (4) The name of the administrator;
- 3 (5) The facility telephone number; and
- 4 (6) Membership in a provider association and
- 5 accreditation by any such organization.

6 (b) Detailed information concerning basic costs for care

7 and operating policies shall be available to the public upon

8 request at each facility. However, a facility may refuse to

9 make available any proprietary operating policies to the extent

10 such facility reasonably believes such policies may be revealed

11 to a competitor.

12 Section 2-208. Notice of imminent death, unusual incident,

13 abuse, or neglect.

14 (a) A facility shall immediately notify the identified

15 resident's next of kin, guardian, resident's representative,

16 and physician of the resident's death or when the resident's

17 death appears to be imminent. A facility shall immediately

18 notify the Department by telephone of a resident's death within

19 24 hours after the resident's death. The facility shall notify

20 the Department of the death of a facility's resident that does

21 not occur in the facility immediately upon learning of the

22 death. A facility shall promptly notify the coroner or medical

23 examiner of a resident's death in a manner and form to be

24 determined by the Department after consultation with the

25 coroner or medical examiner of the county in which the facility

1 is located. In addition to notice to the Department by
2 telephone, the Department shall require the facility to submit
3 written notification of the death of a resident within 72 hours
4 after the death, including a report of any medication errors or
5 other incidents that occurred within 30 days of the resident's
6 death. A facility's failure to comply with this Section shall
7 constitute a Type "B" violation.

8 (b) A facility shall immediately notify the resident's next
9 of kin, guardian, or resident representative of any unusual
10 incident, abuse, or neglect involving the resident. A facility
11 shall immediately notify the Department by telephone of any
12 unusual incident, abuse, or neglect required to be reported
13 pursuant to State law or administrative rule. In addition to
14 notice to the Department by telephone, the Department shall
15 require the facility to submit written notification of any
16 unusual incident, abuse, or neglect within one day after the
17 unusual incident, abuse, or neglect occurring. A facility's
18 failure to comply with this Section shall constitute a Type "B"
19 violation. For purposes of this Section, "unusual incident"
20 means serious injury; unscheduled hospital visit for treatment
21 of serious injury; 9-1-1 calls for emergency services directly
22 relating to a resident threat; or stalking of staff or person
23 served that raises health or safety concerns.

24 Section 2-209. Number of residents. A facility shall admit
25 only that number of residents for which it is licensed.

1 Section 2-210. Policies and procedures. A facility shall
2 establish written policies and procedures to implement the
3 responsibilities and rights provided in this Article. The
4 policies shall include the procedure for the investigation and
5 resolution of resident complaints as set forth under Section
6 3-702. The policies and procedures shall be clear and
7 unambiguous and shall be available for inspection by any
8 person. A summary of the policies and procedures, printed in
9 not less than 12-point type, shall be distributed to each
10 resident and representative.

11 Section 2-211. Explanation of rights. Each resident and
12 resident's guardian or other person acting for the resident
13 shall be given a written explanation, prepared by the Office of
14 the State Long Term Care Ombudsman, of all the rights
15 enumerated in Part 1 of this Article and in Part 4 of Article
16 III. For residents of facilities participating in Title XVIII
17 or XIX of the Social Security Act, the explanation shall
18 include an explanation of residents' rights enumerated in that
19 Act. The explanation shall be given at the time of admission to
20 a facility or as soon thereafter as the condition of the
21 resident permits, but in no event later than 48 hours after
22 admission, and again at least annually thereafter. At the time
23 of the implementation of this Act each resident shall be given
24 a written summary of all the rights enumerated in Part 1 of

1 this Article.

2 If a resident is unable to read such written explanation,
3 it shall be read to the resident in a language the resident
4 understands. In the case of a minor or a person having a
5 guardian or other person acting for him or her, both the
6 resident and the parent, guardian or other person acting for
7 the resident shall be fully informed of these rights.

8 Section 2-212. Staff familiarity with rights and
9 responsibilities. The facility shall ensure that its staff is
10 familiar with and observes the rights and responsibilities
11 enumerated in this Article.

12 Section 2-213. Vaccinations.

13 (a) A facility shall annually administer or arrange for
14 administration of a vaccination against influenza to each
15 resident, in accordance with the recommendations of the
16 Advisory Committee on Immunization Practices of the Centers for
17 Disease Control and Prevention that are most recent to the time
18 of vaccination, unless the vaccination is medically
19 contraindicated or the resident has refused the vaccine.
20 Influenza vaccinations for all residents age 65 and over shall
21 be completed by November 30 of each year or as soon as
22 practicable if vaccine supplies are not available before
23 November 1. Residents admitted after November 30, during the
24 flu season, and until February 1 shall, as medically

1 appropriate, receive an influenza vaccination prior to or upon
2 admission or as soon as practicable if vaccine supplies are not
3 available at the time of the admission, unless the vaccine is
4 medically contraindicated or the resident has refused the
5 vaccine. In the event that the Advisory Committee on
6 Immunization Practices of the Centers for Disease Control and
7 Prevention determines that dates of administration other than
8 those stated in this Act are optimal to protect the health of
9 residents, the Department is authorized to develop rules to
10 mandate vaccinations at those times rather than the times
11 stated in this Act. A facility shall document in the resident's
12 medical record that an annual vaccination against influenza was
13 administered, arranged, refused or medically contraindicated.

14 (b) A facility shall administer or arrange for
15 administration of a pneumococcal vaccination to each resident,
16 in accordance with the recommendations of the Advisory
17 Committee on Immunization Practices of the Centers for Disease
18 Control and Prevention, who has not received this immunization
19 prior to or upon admission to the facility, unless the resident
20 refuses the offer for vaccination or the vaccination is
21 medically contraindicated. A facility shall document in each
22 resident's medical record that a vaccination against
23 pneumococcal pneumonia was offered and administered, arranged,
24 refused, or medically contraindicated.

25 Section 2-214. Consumer Choice Information Reports.

1 (a) Every facility shall complete a Consumer Choice
2 Information Report and shall file it with the Office of State
3 Long Term Care Ombudsman electronically as prescribed by the
4 Office. The Report shall be filed annually and upon request of
5 the Office of State Long Term Care Ombudsman. The Consumer
6 Choice Information Report must be completed by the facility in
7 full.

8 (b) A violation of any of the provisions of this Section
9 constitutes an unlawful practice under the Consumer Fraud and
10 Deceptive Business Practices Act. All remedies, penalties, and
11 authority granted to the Attorney General by the Consumer Fraud
12 and Deceptive Business Practices Act shall be available to him
13 or her for the enforcement of this Section.

14 (c) The Department of Public Health shall include
15 verification of the submission of a facility's current Consumer
16 Choice Information Report when conducting an inspection
17 pursuant to Section 3-212.

18 Section 2-216. Notification of identified offenders. If
19 identified offenders are residents of the licensed facility,
20 the licensed facility shall notify every resident or resident's
21 guardian in writing that such offenders are residents of the
22 licensed facility. The licensed facility shall also provide
23 notice to its employees and to visitors to the facility that
24 identified offenders are residents.

1 Section 2-217. Notification of violations. When the
2 Department issues any notice pursuant to Section 3-119,
3 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice
4 of federal Medicaid certification deficiencies, the facility
5 shall provide notification of the violations and deficiencies
6 within 10 days after receiving a notice described within this
7 Section to every resident and the resident's representative or
8 guardian identified or referred to anywhere within the
9 Department notice or the CMS 2567 as having received care or
10 services that violated State or federal standards. The
11 notification shall include a Department-prescribed
12 notification letter as determined by rule and a copy of the
13 notice and CMS 2567, if any, issued by the Department. A
14 facility's failure to provide notification pursuant to this
15 Section to a resident and the resident's representative or
16 guardian, if any, shall constitute a Type "B" violation.

17 Section 2-218. Minimum staffing. Facility staffing shall
18 be based on all the needs of the residents and comply with
19 Department rules as set forth under Section 3-202 of this Act.
20 Facilities shall provide each resident, regardless of age, no
21 less than 4.0 hours of nursing and personal care time each day.
22 The Department shall establish by rule the amount of registered
23 or other licensed nurse and professional care time from the
24 total 4.0 nursing and personal care time that shall be provided
25 each day. A facility's failure to comply with this Section

1 shall constitute a Type "B" violation.

2 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES,
3 AND REMEDIES

4 PART 1. LICENSING

5 Section 3-101. Licensure system. The Department shall
6 establish a comprehensive system of licensure for facilities in
7 accordance with this Act for the purposes of:

8 (1) Protecting the health, welfare, and safety of
9 residents; and

10 (2) Assuring the accountability for reimbursed care
11 provided in certified facilities participating in a
12 federal or State health program.

13 Section 3-102. Necessity of license. No person may
14 establish, operate, maintain, offer or advertise a facility
15 within this State unless and until he or she obtains a valid
16 license therefore as hereinafter provided, which license
17 remains unsuspended, unrevoked and unexpired. No public
18 official or employee may place any person in, or recommend that
19 any person be placed in, or directly or indirectly cause any
20 person to be placed in any facility which is being operated
21 without a valid license.

1 Section 3-102.1. Denial of Department access to facility.
2 If the Department is denied access to a facility or any other
3 place which it reasonably believes is required to be licensed
4 as a facility under this Act, it shall request intervention of
5 local, county or State law enforcement agencies to seek an
6 appropriate court order or warrant to examine or interview the
7 residents of such facility. Any person or entity preventing the
8 Department from carrying out its duties under this Section
9 shall be guilty of a violation of this Act and shall be subject
10 to such penalties related thereto.

11 Section 3-103. Application for license; financial
12 statement. The procedure for obtaining a valid license shall be
13 as follows:

14 (1) Application to operate a facility shall be made to
15 the Department on forms furnished by the Department.

16 (2) All license applications shall be accompanied with
17 an application fee. The fee for an annual license shall be
18 \$995. Facilities that pay a fee or assessment pursuant to
19 Article V-C of the Illinois Public Aid Code shall be exempt
20 from the license fee imposed under this item (2). The fee
21 for a 2-year license shall be double the fee for the annual
22 license set forth in the preceding sentence. The fees
23 collected shall be deposited with the State Treasurer into
24 the Long Term Care Monitor/Receiver Fund, which has been
25 created as a special fund in the State treasury. This

1 special fund is to be used by the Department for expenses
2 related to the appointment of monitors and receivers as
3 contained in Sections 3-501 through 3-517. At the end of
4 each fiscal year, any funds in excess of \$1,000,000 held in
5 the Long Term Care Monitor/Receiver Fund shall be deposited
6 in the State's General Revenue Fund. The application shall
7 be under oath and the submission of false or misleading
8 information shall be a Class A misdemeanor. The application
9 shall contain the following information:

10 (a) The name and address of the applicant if an
11 individual, and if a firm, partnership, or
12 association, of every member thereof, and in the case
13 of a corporation, the name and address thereof and of
14 its officers and its registered agent, and in the case
15 of a unit of local government, the name and address of
16 its chief executive officer;

17 (b) The name and location of the facility for which
18 a license is sought;

19 (c) The name of the person or persons under whose
20 management or supervision the facility will be
21 conducted;

22 (d) The number and type of residents for which
23 maintenance, personal care, or nursing is to be
24 provided; and

25 (e) Such information relating to the number,
26 experience, and training of the employees of the

1 facility, any management agreements for the operation
2 of the facility, and of the moral character of the
3 applicant and employees as the Department may deem
4 necessary.

5 (3) Each initial application shall be accompanied by a
6 financial statement setting forth the financial condition
7 of the applicant and by a statement from the unit of local
8 government having zoning jurisdiction over the facility's
9 location stating that the location of the facility is not
10 in violation of a zoning ordinance. An initial application
11 for a new facility shall be accompanied by a permit as
12 required by the Illinois Health Facilities Planning Act.
13 After the application is approved, the applicant shall
14 advise the Department every 6 months of any changes in the
15 information originally provided in the application.

16 (4) Other information necessary to determine the
17 identity and qualifications of an applicant to operate a
18 facility in accordance with this Act shall be included in
19 the application as required by the Department in
20 regulations.

21 Section 3-104. Licensing and regulation by municipality.
22 Any city, village or incorporated town may by ordinance provide
23 for the licensing and regulation of a facility or any
24 classification of such facility, as defined herein, within such
25 municipality, provided that the ordinance requires compliance

1 with at least the minimum requirements established by the
2 Department under this Act. The licensing and enforcement
3 provisions of the municipality shall fully comply with this
4 Act, and the municipality shall make available information as
5 required by this Act. Such compliance shall be determined by
6 the Department subject to review as provided in Section 3-703.
7 Section 3-703 shall also be applicable to the judicial review
8 of final administrative decisions of the municipality under
9 this Act.

10 Section 3-105. Reports by municipality. Any city, village
11 or incorporated town which has or may have ordinances requiring
12 the licensing and regulation of facilities with at least the
13 minimum standards established by the Department under this Act,
14 shall make such periodic reports to the Department as the
15 Department deems necessary. This report shall include a list of
16 those facilities licensed by such municipality, the number of
17 beds of each facility and the date the license of each facility
18 is effective.

19 Section 3-106. Issuance of license to holder of municipal
20 license.

21 (a) Upon receipt of notice and proof from an applicant or
22 licensee that he has received a license or renewal thereof from
23 a city, village or incorporated town, accompanied by the
24 required license or renewal fees, the Department shall issue a

1 license or renewal license to such person. The Department shall
2 not issue a license hereunder to any person who has failed to
3 qualify for a municipal license. If the issuance of a license
4 by the Department antedates regulatory action by a
5 municipality, the municipality shall issue a local license
6 unless the standards and requirements under its ordinance or
7 resolution are greater than those prescribed under this Act.

8 (b) In the event that the standards and requirements under
9 the ordinance or resolution of the municipality are greater
10 than those prescribed under this Act, the license issued by the
11 Department shall remain in effect pending reasonable
12 opportunity provided by the municipality, which shall be not
13 less than 60 days, for the licensee to comply with the local
14 requirements. Upon notice by the municipality, or upon the
15 Department's own determination that the licensee has failed to
16 qualify for a local license, the Department shall revoke such
17 license.

18 Section 3-107. Inspection; fees. The Department and the
19 city, village or incorporated town shall have the right at any
20 time to visit and inspect the premises and personnel of any
21 facility for the purpose of determining whether the applicant
22 or licensee is in compliance with this Act or with the local
23 ordinances which govern the regulation of the facility. The
24 Department may survey any former facility which once held a
25 license to ensure that the facility is not again operating

1 without a license. Municipalities may charge a reasonable
2 license or renewal fee for the regulation of facilities, which
3 fees shall be in addition to the fees paid to the Department.

4 Section 3-107.1. Access by law enforcement officials and
5 agencies. Notwithstanding any other provision of this Act, the
6 Attorney General, the State's Attorneys and various law
7 enforcement agencies of this State and its political
8 subdivisions shall have full and open access to any facility
9 pursuant to Article 108 of the Code of Criminal Procedure of
10 1963 in the exercise of their investigatory and prosecutorial
11 powers in the enforcement of the criminal laws of this State.
12 Furthermore, the Attorney General, the State's Attorneys and
13 law enforcement agencies of this State shall inform the
14 Department of any violations of this Act of which they have
15 knowledge. Disclosure of matters before a grand jury shall be
16 made in accordance with Section 112-6 of the Code of Criminal
17 Procedure of 1963.

18 Section 3-108. Cooperation with State agencies. The
19 Department shall coordinate the functions within State
20 government affecting facilities licensed under this Act and
21 shall cooperate with other State agencies which establish
22 standards or requirements for facilities to assure necessary,
23 equitable, and consistent State supervision of licensees
24 without unnecessary duplication of survey, evaluation, and

1 consultation services or complaint investigations. The
2 Department shall cooperate with the Department of Human
3 Services in regard to facilities containing more than 20% of
4 residents for whom the Department of Human Services has
5 mandated follow up responsibilities under the Mental Health and
6 Developmental Disabilities Administrative Act. The Department
7 shall cooperate with the Department of Healthcare and Family
8 Services in regard to facilities where recipients of public aid
9 are residents. The Department shall immediately refer to the
10 Department of Financial and Professional Regulation (as
11 successor to the Department of Professional Regulation) for
12 investigation any credible evidence of which it has knowledge
13 that an individual licensed by that Department has violated
14 this Act or any rule issued under this Act. The Department
15 shall enter into agreements with other State Departments,
16 agencies or commissions to effectuate the purpose of this
17 Section.

18 Section 3-109. Issuance of license based on Director's
19 findings. Upon receipt and review of an application for a
20 license made under this Article and inspection of the applicant
21 facility under this Article, the Director shall issue a license
22 if he or she finds:

23 (1) That the individual applicant, or the corporation,
24 partnership or other entity if the applicant is not an
25 individual, is a person responsible and suitable to operate

1 or to direct or participate in the operation of a facility
2 by virtue of financial capacity, appropriate business or
3 professional experience, a record of compliance with
4 lawful orders of the Department and lack of revocation of a
5 license during the previous 5 years and is not the owner of
6 a facility designated pursuant to Section 3-304.2 as a
7 distressed facility;

8 (2) That the facility is under the supervision of an
9 administrator who is licensed, if required, under the
10 Nursing Home Administrators Licensing and Disciplinary
11 Act, as now or hereafter amended; and

12 (3) That the facility is in substantial compliance with
13 this Act, and such other requirements for a license as the
14 Department by rule may establish under this Act.

15 Section 3-110. Contents and period of license.

16 (a) Any license granted by the Director shall state the
17 maximum bed capacity for which it is granted, the date the
18 license was issued, and the expiration date. Except as provided
19 in subsection (b), such licenses shall normally be issued for a
20 period of one year. However, the Director may issue licenses or
21 renewals for periods of not less than 6 months nor more than 18
22 months for facilities with annual licenses and not less than 18
23 months nor more than 30 months for facilities with 2-year
24 licenses in order to distribute the expiration dates of such
25 licenses throughout the calendar year, and fees for such

1 licenses shall be prorated on the basis of the portion of a
2 year for which they are issued. Each license shall be issued
3 only for the premises and persons named in the application and
4 shall not be transferable or assignable.

5 The Department shall require the licensee to comply with
6 the requirements of a court order issued under Section 3-515,
7 as a condition of licensing.

8 (b) A license for a period of 2 years shall be issued to a
9 facility if the facility:

10 (1) has not received a Type "AA" violation within the
11 last 12 months;

12 (1.5) has not received a Type "A" violation within the
13 last 24 months;

14 (2) has not received a Type "B" violation within the
15 last 24 months;

16 (3) has not had an inspection, survey, or evaluation
17 that resulted in the issuance of 10 or more administrative
18 warnings in the last 24 months;

19 (4) has not had an inspection, survey, or evaluation
20 that resulted in an administrative warning issued for a
21 violation of Sections 3-401 through 3-413 in the last 24
22 months;

23 (5) has not been issued an order to reimburse a
24 resident for a violation of Article II under subsection (6)
25 of Section 3-305 in the last 24 months; and

26 (6) has not been subject to sanctions or

1 decertification for violations in relation to patient care
2 of a facility under Titles XVIII and XIX of the federal
3 Social Security Act within the last 24 months.

4 If a facility with a 2-year license fails to meet the
5 conditions in items (1) through (6) of this subsection, in
6 addition to any other sanctions that may be applied by the
7 Department under this Act, the facility's 2-year license shall
8 be replaced by a one year license until such time as the
9 facility again meets the conditions in items (1) through (6) of
10 this subsection.

11 Section 3-111. Issuance or renewal of license after notice
12 of violation. The issuance or renewal of a license after notice
13 of a violation has been sent shall not constitute a waiver by
14 the Department of its power to rely on the violation as the
15 basis for subsequent license revocation or other enforcement
16 action under this Act arising out of the notice of violation.

17 Section 3-112. Transfer of ownership; license.

18 (a) Whenever ownership of a facility is transferred from
19 the person named in the license to any other person, the
20 transferee must obtain a new probationary license. The
21 transferee shall notify the Department of the transfer and
22 apply for a new license at least 30 days prior to final
23 transfer. The Department may not approve the transfer of
24 ownership to an owner of a facility designated pursuant to

1 Section 3-304.2 of this Act as a distressed facility.

2 (b) The transferor shall notify the Department at least 30
3 days prior to final transfer. The transferor shall remain
4 responsible for the operation of the facility until such time
5 as a license is issued to the transferee.

6 Section 3-113. Transferee; conditional license. The
7 license granted to the transferee shall be subject to the plan
8 of correction submitted by the previous owner and approved by
9 the Department and any conditions contained in a conditional
10 license issued to the previous owner. If there are outstanding
11 violations and no approved plan of correction has been
12 implemented, the Department may issue a conditional license and
13 plan of correction as provided in Sections 3-311 through 3-317.

14 Section 3-114. Transferor liable for penalties. The
15 transferor shall remain liable for all penalties assessed
16 against the facility which are imposed for violations occurring
17 prior to transfer of ownership.

18 Section 3-115. License renewal application. At least 120
19 days but not more than 150 days prior to license expiration,
20 the licensee shall submit an application for renewal of the
21 license in such form and containing such information as the
22 Department requires. If the application is approved, the
23 license shall be renewed in accordance with Section 3-110. The

1 renewal application for a facility shall not be approved unless
2 the applicant has provided to the Department an accurate
3 disclosure document in accordance with the Alzheimer's Disease
4 and Related Dementias Special Care Disclosure Act. If
5 application for renewal is not timely filed, the Department
6 shall so inform the licensee.

7 Section 3-116. Probationary license. If the applicant has
8 not been previously licensed or if the facility is not in
9 operation at the time application is made, the Department shall
10 issue only a probationary license. A probationary license shall
11 be valid for 120 days unless sooner suspended or revoked under
12 Section 3-119. Within 30 days prior to the termination of a
13 probationary license, the Department shall fully and
14 completely inspect the facility and, if the facility meets the
15 applicable requirements for licensure, shall issue a license
16 under Section 3-109. If the Department finds that the facility
17 does not meet the requirements for licensure but has made
18 substantial progress toward meeting those requirements, the
19 license may be renewed once for a period not to exceed 120 days
20 from the expiration date of the initial probationary license.

21 Section 3-117. Denial of license; grounds. An application
22 for a license may be denied for any of the following reasons:

23 (1) Failure to meet any of the minimum standards set
24 forth by this Act or by rules and regulations promulgated

1 by the Department under this Act.

2 (2) Conviction of the applicant, or if the applicant is
3 a firm, partnership or association, of any of its members,
4 or if a corporation, the conviction of the corporation or
5 any of its officers or stockholders, or of the person
6 designated to manage or supervise the facility, of a
7 felony, or of 2 or more misdemeanors involving moral
8 turpitude, during the previous 5 years as shown by a
9 certified copy of the record of the court of conviction.

10 (3) Personnel insufficient in number or unqualified by
11 training or experience to properly care for the proposed
12 number and type of residents.

13 (4) Insufficient financial or other resources to
14 operate and conduct the facility in accordance with
15 standards promulgated by the Department under this Act.

16 (5) Revocation of a facility license during the
17 previous 5 years, if such prior license was issued to the
18 individual applicant, a controlling owner or controlling
19 combination of owners of the applicant; or any affiliate of
20 the individual applicant or controlling owner of the
21 applicant and such individual applicant, controlling owner
22 of the applicant or affiliate of the applicant was a
23 controlling owner of the prior license; provided, however,
24 that the denial of an application for a license pursuant to
25 this subsection must be supported by evidence that such
26 prior revocation renders the applicant unqualified or

1 incapable of meeting or maintaining a facility in
2 accordance with the standards and rules promulgated by the
3 Department under this Act.

4 (6) That the facility is not under the direct
5 supervision of a full time administrator, as defined by
6 regulation, who is licensed, if required, under the Nursing
7 Home Administrators Licensing and Disciplinary Act.

8 (7) That the facility is in receivership and the
9 proposed licensee has not submitted a specific detailed
10 plan to bring the facility into compliance with the
11 requirements of this Act and with federal certification
12 requirements, if the facility is certified, and to keep the
13 facility in such compliance.

14 (8) The applicant is the owner of a facility designated
15 pursuant to Section 3-304.2 of this Act as a distressed
16 facility.

17 Section 3-118. Notice of denial; request for hearing.
18 Immediately upon the denial of any application or reapplication
19 for a license under this Article, the Department shall notify
20 the applicant in writing. Notice of denial shall include a
21 clear and concise statement of the violations of Section 3-117
22 on which denial is based and notice of the opportunity for a
23 hearing under Section 3-703. If the applicant desires to
24 contest the denial of a license, it shall provide written
25 notice to the Department of a request for a hearing within 10

1 days after receipt of the notice of denial. The Department
2 shall commence the hearing under Section 3-703.

3 Section 3-119. Suspension, revocation, or refusal to renew
4 license.

5 (a) The Department, after notice to the applicant or
6 licensee, may suspend, revoke or refuse to renew a license in
7 any case in which the Department finds any of the following:

8 (1) There has been a substantial failure to comply with
9 this Act or the rules and regulations promulgated by the
10 Department under this Act. A substantial failure by a
11 facility shall include, but not be limited to, any of the
12 following:

13 (A) termination of Medicare or Medicaid
14 certification by the Centers for Medicare and Medicaid
15 Services; or

16 (B) a failure by the facility to pay any fine
17 assessed under this Act after the Department has sent
18 to the facility and licensee at least 2 notices of
19 assessment that include a schedule of payments as
20 determined by the Department, taking into account
21 extenuating circumstances and financial hardships of
22 the facility.

23 (2) Conviction of the licensee, or of the person
24 designated to manage or supervise the facility, of a
25 felony, or of 2 or more misdemeanors involving moral

1 turpitude, during the previous 5 years as shown by a
2 certified copy of the record of the court of conviction.

3 (3) Personnel is insufficient in number or unqualified
4 by training or experience to properly care for the number
5 and type of residents served by the facility.

6 (4) Financial or other resources are insufficient to
7 conduct and operate the facility in accordance with
8 standards promulgated by the Department under this Act.

9 (5) The facility is not under the direct supervision of
10 a full time administrator, as defined by regulation, who is
11 licensed, if required, under the Nursing Home
12 Administrators Licensing and Disciplinary Act.

13 (6) The facility has committed 2 Type "AA" violations
14 within a 2-year period.

15 (7) The facility has committed a Type "AA" violation
16 while the facility is listed as a "distressed facility".

17 (b) Notice under this Section shall include a clear and
18 concise statement of the violations on which the nonrenewal or
19 revocation is based, the statute or rule violated and notice of
20 the opportunity for a hearing under Section 3-703.

21 (c) If a facility desires to contest the nonrenewal or
22 revocation of a license, the facility shall, within 10 days
23 after receipt of notice under subsection (b) of this Section,
24 notify the Department in writing of its request for a hearing
25 under Section 3-703. Upon receipt of the request the Department
26 shall send notice to the facility and hold a hearing as

1 provided under Section 3-703.

2 (d) The effective date of nonrenewal or revocation of a
3 license by the Department shall be any of the following:

4 (1) Until otherwise ordered by the circuit court,
5 revocation is effective on the date set by the Department
6 in the notice of revocation, or upon final action after
7 hearing under Section 3-703, whichever is later.

8 (2) Until otherwise ordered by the circuit court,
9 nonrenewal is effective on the date of expiration of any
10 existing license, or upon final action after hearing under
11 Section 3-703, whichever is later; however, a license shall
12 not be deemed to have expired if the Department fails to
13 timely respond to a timely request for renewal under this
14 Act or for a hearing to contest nonrenewal under paragraph
15 (c).

16 (3) The Department may extend the effective date of
17 license revocation or expiration in any case in order to
18 permit orderly removal and relocation of residents.

19 The Department may refuse to issue or may suspend the
20 license of any person who fails to file a return, or to pay the
21 tax, penalty or interest shown in a filed return, or to pay any
22 final assessment of tax, penalty or interest, as required by
23 any tax Act administered by the Illinois Department of Revenue,
24 until such time as the requirements of any such tax Act are
25 satisfied.

1 Section 3-119.1. Ban on new admissions.

2 (a) Upon a finding by the Department that there has been a
3 substantial failure to comply with this Act or the rules and
4 regulations promulgated by the Department under this Act,
5 including, without limitation, the circumstances set forth in
6 subsection (a) of Section 3-119 of this Act, or if the
7 Department otherwise finds that it would be in the public
8 interest or the interest of the health, safety, and welfare of
9 facility residents, the Department may impose a ban on new
10 admissions to any facility licensed under this Act. The ban
11 shall continue until such time as the Department determines
12 that the circumstances giving rise to the ban no longer exist.

13 (b) The Department shall provide notice to the facility and
14 licensee of any ban imposed pursuant to subsection (a) of this
15 Section. The notice shall provide a clear and concise statement
16 of the circumstances on which the ban on new admissions is
17 based and notice of the opportunity for a hearing. If the
18 Department finds that the public interest or the health,
19 safety, or welfare of facility residents imperatively requires
20 immediate action and if the Department incorporates a finding
21 to that effect in its notice, then the ban on new admissions
22 may be ordered pending any hearing requested by the facility.
23 Those proceedings shall be promptly instituted and determined.
24 The Department shall promulgate rules defining the
25 circumstances under which a ban on new admissions may be
26 imposed.

1 PART 2. GENERAL PROVISIONS

2 Section 3-201. Medical treatment; no prescription by
3 Department. The Department shall not prescribe the course of
4 medical treatment provided to an individual resident by the
5 resident's physician in a facility.

6 Section 3-202. Standards for facilities. The Department
7 shall prescribe minimum standards for facilities. These
8 standards shall regulate:

9 (1) Location and construction of the facility,
10 including plumbing, heating, lighting, ventilation, and
11 other physical conditions which shall ensure the health,
12 safety, and comfort of residents and their protection from
13 fire hazard;

14 (2) To the extent this Act has not established minimum
15 staffing requirements within this Act, the numbers and
16 qualifications of all personnel, including management and
17 nursing personnel, having responsibility for any part of
18 the care given to residents; specifically, the Department
19 shall establish staffing ratios for facilities which shall
20 specify the number of staff hours per resident of care that
21 are needed for professional nursing care for various types
22 of facilities or areas within facilities;

23 (3) All sanitary conditions within the facility and its

1 surroundings, including water supply, sewage disposal,
2 food handling, and general hygiene, which shall ensure the
3 health and comfort of residents;

4 (4) Diet related to the needs of each resident based on
5 good nutritional practice and on recommendations which may
6 be made by the physicians attending the resident;

7 (5) Equipment essential to the health and welfare of
8 the residents;

9 (6) A program of habilitation and rehabilitation for
10 those residents who would benefit from such programs;

11 (7) A program for adequate maintenance of physical
12 plant and equipment;

13 (8) Adequate accommodations, staff and services for
14 the number and types of residents for whom the facility is
15 licensed to care, including standards for temperature and
16 relative humidity within comfort zones determined by the
17 Department based upon a combination of air temperature,
18 relative humidity and air movement. Such standards shall
19 also require facility plans that provide for health and
20 comfort of residents at medical risk as determined by the
21 attending physician whenever the temperature and relative
22 humidity are outside such comfort zones established by the
23 Department. The standards must include a requirement that
24 areas of a facility used by residents of the facility be
25 air-conditioned and heated by means of operable
26 air-conditioning and heating equipment. The areas subject

1 to this air-conditioning and heating requirement include,
2 without limitation, bedrooms or common areas such as
3 sitting rooms, activity rooms, living rooms, community
4 rooms, and dining rooms;

5 (9) Development of evacuation and other appropriate
6 safety plans for use during weather, health, fire, physical
7 plant, environmental and national defense emergencies; and

8 (10) Maintenance of minimum financial or other
9 resources necessary to meet the standards established
10 under this Section, and to operate and conduct the facility
11 in accordance with this Act.

12 Section 3-202.1. Weather or hazard alert system. The
13 Department shall develop and implement a system of alerting and
14 educating facilities and their personnel as to the existence or
15 possibility of weather or other hazardous circumstances which
16 may endanger resident health or safety and designating any
17 precautions to prevent or minimize such danger. The Department
18 may assist any facility experiencing difficulty in dealing with
19 such emergencies. The Department may provide for announcement
20 to the public of the dangers posed to facility residents by
21 such existing or potential weather or hazardous circumstances.

22 Section 3-202.2a. Comprehensive resident care plan. A
23 facility, with the participation of the resident and the
24 resident's guardian or resident's representative, as

1 applicable, must develop and implement a comprehensive care
2 plan for each resident that includes measurable objectives and
3 timetables to meet the resident's medical, nursing, mental
4 health, psychosocial, and habilitation needs that are
5 identified in the resident's comprehensive assessment that
6 allows the resident to attain or maintain the highest
7 practicable level of independent functioning and provide for
8 discharge planning to the least restrictive setting based on
9 the resident's care needs. The assessment shall be developed
10 with the active participation of the resident and the
11 resident's guardian or resident's representative, as
12 applicable.

13 Section 3-202.3. Identified offenders as residents. No
14 later than 30 days after the effective date of this Act, the
15 Department shall file with the Illinois Secretary of State's
16 Office, pursuant to the Illinois Administrative Procedure Act,
17 emergency rules regarding the provision of services to
18 identified offenders. The emergency rules shall provide for, or
19 include, but not be limited to the following:

20 (1) A process for the identification of identified
21 offenders.

22 (2) A required risk assessment of identified
23 offenders.

24 (3) A requirement that a licensed facility be required,
25 within 10 days of the filing of the emergency rules, to

1 compare its residents against the Illinois Department of
2 Corrections and Illinois State Police registered sex
3 offender databases.

4 (4) A requirement that the licensed facility notify the
5 Department within 48 hours of determining that a resident
6 or residents of the licensed facility are listed on the
7 Illinois Department of Corrections or Illinois State
8 Police registered sex offender databases.

9 (5) The care planning of identified offenders, which
10 shall include, but not be limited to, a description of the
11 security measures necessary to protect facility residents
12 from the identified offender, including whether the
13 identified offender should be segregated from other
14 facility residents.

15 (6) For offenders serving terms of probation for felony
16 offenses, parole, or mandatory supervised release, the
17 facility shall acknowledge the terms of release as imposed
18 by the court or Illinois Prisoner Review Board.

19 (7) The discharge planning for identified offenders.

20 Section 3-202.4. Feasibility of segregating identified
21 offenders. The Department shall determine the feasibility of
22 requiring identified offenders that seek admission to a
23 licensed facility to be segregated from other residents.

24 Section 3-202.5. Facility plan review; fees.

1 (a) Before commencing construction of a new facility or
2 specified types of alteration or additions to an existing
3 facility involving major construction, as defined by rule by
4 the Department, with an estimated cost greater than \$100,000,
5 architectural drawings and specifications for the facility
6 shall be submitted to the Department for review and approval. A
7 facility may submit architectural drawings and specifications
8 for other construction projects for Department review
9 according to subsection (b) that shall not be subject to fees
10 under subsection (d). Review of drawings and specifications
11 shall be conducted by an employee of the Department meeting the
12 qualifications established by the Department of Central
13 Management Services class specifications for such an
14 individual's position or by a person contracting with the
15 Department who meets those class specifications. Final
16 approval of the drawings and specifications for compliance with
17 design and construction standards shall be obtained from the
18 Department before the alteration, addition, or new
19 construction is begun.

20 (b) The Department shall inform an applicant in writing
21 within 10 working days after receiving drawings and
22 specifications and the required fee, if any, from the applicant
23 whether the applicant's submission is complete or incomplete.
24 Failure to provide the applicant with this notice within 10
25 working days shall result in the submission being deemed
26 complete for purposes of initiating the 60 day review period

1 under this Section. If the submission is incomplete, the
2 Department shall inform the applicant of the deficiencies with
3 the submission in writing. If the submission is complete the
4 required fee, if any, has been paid, the Department shall
5 approve or disapprove drawings and specifications submitted to
6 the Department no later than 60 days following receipt by the
7 Department. The drawings and specifications shall be of
8 sufficient detail, as provided by Department rule, to enable
9 the Department to render a determination of compliance with
10 design and construction standards under this Act. If the
11 Department finds that the drawings are not of sufficient detail
12 for it to render a determination of compliance, the plans shall
13 be determined to be incomplete and shall not be considered for
14 purposes of initiating the 60 day review period. If a
15 submission of drawings and specifications is incomplete, the
16 applicant may submit additional information. The 60 day review
17 period shall not commence until the Department determines that
18 a submission of drawings and specifications is complete or the
19 submission is deemed complete. If the Department has not
20 approved or disapproved the drawings and specifications within
21 60 days, the construction, major alteration, or addition shall
22 be deemed approved. If the drawings and specifications are
23 disapproved, the Department shall state in writing, with
24 specificity, the reasons for the disapproval. The entity
25 submitting the drawings and specifications may submit
26 additional information in response to the written comments from

1 the Department or request a reconsideration of the disapproval.
2 A final decision of approval or disapproval shall be made
3 within 45 days of the receipt of the additional information or
4 reconsideration request. If denied, the Department shall state
5 the specific reasons for the denial.

6 (c) The Department shall provide written approval for
7 occupancy pursuant to subsection (g) and shall not issue a
8 violation to a facility as a result of a licensure or complaint
9 survey based upon the facility's physical structure if:

10 (1) the Department reviewed and approved or deemed
11 approved the drawings and specifications for compliance
12 with design and construction standards;

13 (2) the construction, major alteration, or addition
14 was built as submitted;

15 (3) the law or rules have not been amended since the
16 original approval; and

17 (4) the conditions at the facility indicate that there
18 is a reasonable degree of safety provided for the
19 residents.

20 (d) (Blank).

21 (e) All fees received by the Department under this Section
22 shall be deposited into the Health Facility Plan Review Fund, a
23 special fund created in the State Treasury. Moneys shall be
24 appropriated from that Fund to the Department only to pay the
25 costs of conducting reviews under this Section, under Section
26 3-202.5 of the Nursing Home Care Act, or under Section 3-202.5

1 of the ID/DD Community Care Act. None of the moneys in the
2 Health Facility Plan Review Fund shall be used to reduce the
3 amount of General Revenue Fund moneys appropriated to the
4 Department for facility plan reviews conducted pursuant to this
5 Section.

6 (f) (Blank).

7 (g) The Department shall conduct an on site inspection of
8 the completed project no later than 30 days after notification
9 from the applicant that the project has been completed and all
10 certifications required by the Department have been received
11 and accepted by the Department. The Department shall provide
12 written approval for occupancy to the applicant within 5
13 working days of the Department's final inspection, provided the
14 applicant has demonstrated substantial compliance as defined
15 by Department rule. Occupancy of new major construction is
16 prohibited until Department approval is received, unless the
17 Department has not acted within the time frames provided in
18 this subsection (g), in which case the construction shall be
19 deemed approved. Occupancy shall be authorized after any
20 required health inspection by the Department has been
21 conducted.

22 (h) The Department shall establish, by rule, a procedure to
23 conduct interim on site review of large or complex construction
24 projects.

25 (i) The Department shall establish, by rule, an expedited
26 process for emergency repairs or replacement of like equipment.

1 (j) Nothing in this Section shall be construed to apply to
2 maintenance, upkeep, or renovation that does not affect the
3 structural integrity of the building, does not add beds or
4 services over the number for which the facility is licensed,
5 and provides a reasonable degree of safety for the residents.

6 Section 3-203. Standards for persons with developmental
7 disability or emotional or behavioral disorder. In licensing
8 any facility for persons with a developmental disability or
9 persons suffering from emotional or behavioral disorders, the
10 Department shall consult with the Department of Human Services
11 in developing minimum standards for such persons.

12 Section 3-204. License classifications. In addition to the
13 authority to prescribe minimum standards, the Department may
14 adopt license classifications of facilities according to the
15 levels of service, and if license classification is adopted the
16 applicable minimum standards shall define the classification.
17 In adopting classification of the license of facilities, the
18 Department may give recognition to the classification of
19 services defined or prescribed by federal statute or federal
20 rule or regulation. More than one classification of the license
21 may be issued to the same facility when the prescribed minimum
22 standards and regulations are met.

23 Section 3-205. Municipalities; license classifications.

1 Where licensing responsibilities are performed by a city,
2 village or incorporated town, the municipality shall use the
3 same classifications as the Department; and a facility may not
4 be licensed for a different classification by the Department
5 than by the municipality.

6 Section 3-206. Curriculum for training nursing assistants
7 and aides. The Department shall prescribe a curriculum for
8 training nursing assistants, habilitation aides, and child
9 care aides.

10 (a) No person, except a volunteer who receives no
11 compensation from a facility and is not included for the
12 purpose of meeting any staffing requirements set forth by the
13 Department, shall act as a nursing assistant, habilitation
14 aide, or child care aide in a facility, nor shall any person,
15 under any other title, not licensed, certified, or registered
16 to render medical care by the Department of Financial and
17 Professional Regulation, assist with the personal, medical, or
18 nursing care of residents in a facility, unless such person
19 meets the following requirements:

20 (1) Be at least 16 years of age, of temperate habits
21 and good moral character, honest, reliable and
22 trustworthy.

23 (2) Be able to speak and understand the English
24 language or a language understood by a substantial
25 percentage of the facility's residents.

1 (3) Provide evidence of employment or occupation, if
2 any, and residence for 2 years prior to his or her present
3 employment.

4 (4) Have completed at least 8 years of grade school or
5 provide proof of equivalent knowledge.

6 (5) Begin a current course of training for nursing
7 assistants, habilitation aides, or child care aides,
8 approved by the Department, within 45 days of initial
9 employment in the capacity of a nursing assistant,
10 habilitation aide, or child care aide at any facility. Such
11 courses of training shall be successfully completed within
12 120 days of initial employment in the capacity of nursing
13 assistant, habilitation aide, or child care aide at a
14 facility. Nursing assistants, habilitation aides, and
15 child care aides who are enrolled in approved courses in
16 community colleges or other educational institutions on a
17 term, semester or trimester basis, shall be exempt from the
18 120-day completion time limit. The Department shall adopt
19 rules for such courses of training. These rules shall
20 include procedures for facilities to carry on an approved
21 course of training within the facility.

22 The Department may accept comparable training in lieu
23 of the 120-hour course for student nurses, foreign nurses,
24 military personnel, or employees of the Department of Human
25 Services.

26 The facility shall develop and implement procedures,

1 which shall be approved by the Department, for an ongoing
2 review process, which shall take place within the facility,
3 for nursing assistants, habilitation aides, and child care
4 aides.

5 At the time of each regularly scheduled licensure
6 survey, or at the time of a complaint investigation, the
7 Department may require any nursing assistant, habilitation
8 aide, or child care aide to demonstrate, either through
9 written examination or action, or both, sufficient
10 knowledge in all areas of required training. If such
11 knowledge is inadequate the Department shall require the
12 nursing assistant, habilitation aide, or child care aide to
13 complete inservice training and review in the facility
14 until the nursing assistant, habilitation aide, or child
15 care aide demonstrates to the Department, either through
16 written examination or action, or both, sufficient
17 knowledge in all areas of required training; and

18 (6) Be familiar with and have general skills related to
19 resident care.

20 (a-0.5) An educational entity, other than a secondary
21 school, conducting a nursing assistant, habilitation aide, or
22 child care aide training program shall initiate a criminal
23 history record check in accordance with the Health Care Worker
24 Background Check Act prior to entry of an individual into the
25 training program. A secondary school may initiate a criminal
26 history record check in accordance with the Health Care Worker

1 Background Check Act at any time during or after a training
2 program.

3 (a-1) Nursing assistants, habilitation aides, or child
4 care aides seeking to be included on the registry maintained
5 under Section 3-206.01 of this Act must authorize the
6 Department of Public Health or its designee to request a
7 criminal history record check in accordance with the Health
8 Care Worker Background Check Act and submit all necessary
9 information. An individual may not newly be included on the
10 registry unless a criminal history record check has been
11 conducted with respect to the individual.

12 (b) Persons subject to this Section shall perform their
13 duties under the supervision of a licensed nurse or other
14 appropriately trained, licensed, or certified personnel.

15 (c) It is unlawful for any facility to employ any person in
16 the capacity of nursing assistant, habilitation aide, or child
17 care aide, or under any other title, not licensed by the State
18 of Illinois to assist in the personal, medical, or nursing care
19 of residents in such facility unless such person has complied
20 with this Section.

21 (d) Proof of compliance by each employee with the
22 requirements set out in this Section shall be maintained for
23 each such employee by each facility in the individual personnel
24 folder of the employee. Proof of training shall be obtained
25 only from the health care worker registry.

26 (e) Each facility shall obtain access to the health care

1 worker registry's web application, maintain the employment and
2 demographic information relating to each employee, and verify
3 by the category and type of employment that each employee
4 subject to this Section meets all the requirements of this
5 Section.

6 (f) Any facility that is operated under Section 3-803 shall
7 be exempt from the requirements of this Section.

8 (g) Each skilled nursing and intermediate care facility
9 that admits persons who are diagnosed as having Alzheimer's
10 disease or related dementias shall require all nursing
11 assistants, habilitation aides, or child care aides, who did
12 not receive 12 hours of training in the care and treatment of
13 such residents during the training required under paragraph (5)
14 of subsection (a), to obtain 12 hours of in house training in
15 the care and treatment of such residents. If the facility does
16 not provide the training in house, the training shall be
17 obtained from other facilities, community colleges or other
18 educational institutions that have a recognized course for such
19 training. The Department shall, by rule, establish a recognized
20 course for such training.

21 The Department's rules shall provide that such training may
22 be conducted in house at each facility subject to the
23 requirements of this subsection, in which case such training
24 shall be monitored by the Department. The Department's rules
25 shall also provide for circumstances and procedures whereby any
26 person who has received training that meets the requirements of

1 this subsection shall not be required to undergo additional
2 training if he or she is transferred to or obtains employment
3 at a different facility or a facility other than those licensed
4 under this Act but remains continuously employed as a nursing
5 assistant, habilitation aide, or child care aide. Individuals
6 who have performed no nursing, nursing-related services, or
7 habilitation services for a period of 24 consecutive months
8 shall be listed as inactive and as such do not meet the
9 requirements of this Section. Licensed sheltered care
10 facilities shall be exempt from the requirements of this
11 Section.

12 Section 3-206.01. Health care worker registry.

13 (a) The Department shall establish and maintain a registry
14 of all individuals who (i) have satisfactorily completed the
15 training required by Section 3-206, (ii) have begun a current
16 course of training as set forth in Section 3-206, or (iii) are
17 otherwise acting as a nursing assistant, habilitation aide,
18 home health aide, or child care aide. The registry shall
19 include the individual's name, his or her current address,
20 Social Security number, and whether the individual has any of
21 the disqualifying convictions listed in Section 25 of the
22 Health Care Worker Background Check Act from the date and
23 location of the training course completed by the individual,
24 and the date of the individual's last criminal records check.
25 Any individual placed on the registry is required to inform the

1 Department of any change of address within 30 days. A facility
2 shall not employ an individual as a nursing assistant,
3 habilitation aide, home health aide, or child care aide, or
4 newly hired as an individual who may have access to a resident,
5 a resident's living quarters, or a resident's personal,
6 financial, or medical records, unless the facility has inquired
7 of the Department's health care worker registry as to
8 information in the registry concerning the individual. The
9 facility shall not employ an individual as a nursing assistant,
10 habilitation aide, or child care aide if that individual is not
11 on the registry unless the individual is enrolled in a training
12 program under paragraph (5) of subsection (a) of Section 3-206
13 of this Act.

14 If the Department finds that a nursing assistant,
15 habilitation aide, home health aide, child care aide, or an
16 unlicensed individual, has abused or neglected a resident or an
17 individual under his or her care, or misappropriated property
18 of a resident or an individual under his or her care in a
19 facility, the Department shall notify the individual of this
20 finding by certified mail sent to the address contained in the
21 registry. The notice shall give the individual an opportunity
22 to contest the finding in a hearing before the Department or to
23 submit a written response to the findings in lieu of requesting
24 a hearing. If, after a hearing or if the individual does not
25 request a hearing, the Department finds that the individual
26 abused a resident, neglected a resident, or misappropriated

1 resident property in a facility, the finding shall be included
2 as part of the registry as well as a clear and accurate summary
3 statement from the individual, if he or she chooses to make
4 such a statement. The Department shall make the following
5 information in the registry available to the public: an
6 individual's full name; the date an individual successfully
7 completed a nurse aide training or competency evaluation; and
8 whether the Department has made a finding that an individual
9 has been guilty of abuse or neglect of a resident or
10 misappropriation of resident's property. In the case of
11 inquiries to the registry concerning an individual listed in
12 the registry, any information disclosed concerning such a
13 finding shall also include disclosure of the individual's
14 statement in the registry relating to the finding or a clear
15 and accurate summary of the statement.

16 (b) The Department shall add to the health care worker
17 registry records of findings as reported by the Inspector
18 General or remove from the health care worker registry records
19 of findings as reported by the Department of Human Services,
20 under subsection (s) of Section 1-17 of the Department of Human
21 Services Act.

22 Section 3-206.02. Designation on registry for offense.

23 (a) The Department, after notice to the nursing assistant,
24 habilitation aide, home health aide, or child care aide, may
25 designate that the Department has found any of the following:

1 (1) The nursing assistant, habilitation aide, home
2 health aide, or child care aide has abused a resident.

3 (2) The nursing assistant, habilitation aide, home
4 health aide, or child care aide has neglected a resident.

5 (3) The nursing assistant, habilitation aide, home
6 health aide, or child care aide has misappropriated
7 resident property.

8 (4) The nursing assistant, habilitation aide, home
9 health aide, or child care aide has been convicted of (i) a
10 felony, (ii) a misdemeanor, an essential element of which
11 is dishonesty, or (iii) any crime that is directly related
12 to the duties of a nursing assistant, habilitation aide, or
13 child care aide.

14 (b) Notice under this Section shall include a clear and
15 concise statement of the grounds denoting abuse, neglect, or
16 theft and notice of the opportunity for a hearing to contest
17 the designation.

18 (c) The Department may designate any nursing assistant,
19 habilitation aide, home health aide, or child care aide on the
20 registry who fails (i) to file a return, (ii) to pay the tax,
21 penalty or interest shown in a filed return, or (iii) to pay
22 any final assessment of tax, penalty or interest, as required
23 by any tax Act administered by the Illinois Department of
24 Revenue, until the time the requirements of the tax Act are
25 satisfied.

26 (c-1) The Department shall document criminal background

1 check results pursuant to the requirements of the Health Care
2 Worker Background Check Act.

3 (d) At any time after the designation on the registry
4 pursuant to subsection (a), (b), or (c) of this Section, a
5 nursing assistant, habilitation aide, home health aide, or
6 child care aide may petition the Department for removal of a
7 designation of neglect on the registry. The Department may
8 remove the designation of neglect of the nursing assistant,
9 habilitation aide, home health aide, or child care aide on the
10 registry unless, after an investigation and a hearing, the
11 Department determines that removal of designation is not in the
12 public interest.

13 Section 3-206.03. Resident attendants.

14 (a) As used in this Section, "resident attendant" means an
15 individual who assists residents in a facility with the
16 following activities:

17 (1) eating and drinking; and

18 (2) personal hygiene limited to washing a resident's
19 hands and face, brushing and combing a resident's hair,
20 oral hygiene, shaving residents with an electric razor, and
21 applying makeup.

22 The term "resident attendant" does not include an
23 individual who:

24 (1) is a licensed health professional or a registered
25 dietitian;

- 1 (2) volunteers without monetary compensation;
2 (3) is a nurse assistant; or
3 (4) performs any nursing or nursing related services
4 for residents of a facility.

5 (b) A facility may employ resident attendants to assist the
6 nurse aides with the activities authorized under subsection
7 (a). The resident attendants shall not count in the minimum
8 staffing requirements under rules implementing this Act.

9 (c) A facility may not use on a full time or other paid
10 basis any individual as a resident attendant in the facility
11 unless the individual:

12 (1) has completed a training and competency evaluation
13 program encompassing the tasks the individual provides;
14 and

15 (2) is competent to provide feeding, hydration, and
16 personal hygiene services.

17 (d) The training and competency evaluation program may be
18 facility based. It may include one or more of the following
19 units:

20 (1) A feeding unit that is a maximum of 5 hours in
21 length.

22 (2) A hydration unit that is a maximum of 3 hours in
23 length.

24 (3) A personal hygiene unit that is a maximum of 5
25 hours in length. These programs must be reviewed and
26 approved by the Department every 2 years.

1 (e) (Blank).

2 (f) A person seeking employment as a resident attendant is
3 subject to the Health Care Worker Background Check Act.

4 Section 3-206.04. Transfer of ownership following
5 suspension or revocation; discussion with new owner. Whenever
6 ownership of a private facility is transferred to another
7 private owner following a final order for a suspension or
8 revocation of the facility's license, the Department shall
9 discuss with the new owner all noted problems associated with
10 the facility and shall determine what additional training, if
11 any, is needed for the direct care staff.

12 Section 3-206.05. Registry checks for employees.

13 (a) Within 60 days after the effective date of this Act,
14 the Department shall require all facilities to conduct required
15 registry checks on employees at the time of hire and annually
16 thereafter during employment. The required registries to be
17 checked are the Health Care Worker Registry, the Department of
18 Children and Family Services' State Central Register, and the
19 Illinois Sex Offender Registry. A person may not be employed if
20 he or she is found to have disqualifying convictions or
21 substantiated cases of abuse or neglect. At the time of the
22 annual registry checks, if a current employee's name has been
23 placed on a registry with disqualifying convictions or
24 disqualifying substantiated cases of abuse or neglect, then the

1 employee must be terminated. Disqualifying convictions or
2 disqualifying substantiated cases of abuse or neglect are
3 defined for the Department of Children and Family Services
4 Central Register by the Department of Children and Family
5 Services' standards for background checks in Part 385 of Title
6 89 of the Illinois Administrative Code. Disqualifying
7 convictions or disqualifying substantiated cases of abuse or
8 neglect are defined for the Health Care Worker Registry by the
9 Health Care Worker Background Check Act and within this Act. A
10 facility's failure to conduct the required registry checks will
11 constitute a Type "B" violation.

12 (b) In collaboration with the Department of Children and
13 Family Services and the Department of Human Services, the
14 Department shall establish a waiver process from the
15 prohibition of employment or termination of employment
16 requirements in subsection (a) of this Section for any
17 applicant or employee listed under the Department of Children
18 and Family Services' State Central Register seeking to be hired
19 or maintain his or her employment with a facility under this
20 Act. The waiver process for applicants and employees outlined
21 under Section 40 of the Health Care Worker Background Check Act
22 shall remain in effect for individuals listed on the Health
23 Care Worker Registry.

24 Section 3-207. Statement of ownership.

25 (a) As a condition of the issuance or renewal of the

1 license of any facility, the applicant shall file a statement
2 of ownership. The applicant shall update the information
3 required in the statement of ownership within 10 days of any
4 change.

5 (b) The statement of ownership shall include the following:

6 (1) The name, address, telephone number, occupation or
7 business activity, business address and business telephone
8 number of the person who is the owner of the facility and
9 every person who owns the building in which the facility is
10 located, if other than the owner of the facility, which is
11 the subject of the application or license; and if the owner
12 is a partnership or corporation, the name of every partner
13 and stockholder of the owner;

14 (2) The name and address of any facility, wherever
15 located, any financial interest in which is owned by the
16 applicant, if the facility were required to be licensed if
17 it were located in this State; and

18 (3) Other information necessary to determine the
19 identity and qualifications of an applicant or licensee to
20 operate a facility in accordance with this Act as required
21 by the Department in regulations.

22 (c) The information in the statement of ownership shall be
23 public information and shall be available from the Department.

24 Section 3-208. Annual financial statement.

25 (a) Each licensee shall file annually, or more often as the

1 Director shall by rule prescribe an attested financial
2 statement. The Director may order an audited financial
3 statement of a particular facility by an auditor of the
4 Director's choice, provided the cost of such audit is paid by
5 the Department.

6 (b) No public funds shall be expended for the maintenance
7 of any resident in a facility which has failed to file the
8 financial statement required under this Section and no public
9 funds shall be paid to or on behalf of a facility which has
10 failed to file a statement.

11 (c) The Director of Public Health and the Director of
12 Healthcare and Family Services shall promulgate under Sections
13 3-801 and 3-802, one set of regulations for the filing of these
14 financial statements, and shall provide in these regulations
15 for forms, required information, intervals and dates of filing
16 and such other provisions as they may deem necessary.

17 (d) The Director of Public Health and the Director of
18 Healthcare and Family Services shall seek the advice and
19 comments of other State and federal agencies which require the
20 submission of financial data from facilities licensed under
21 this Act and shall incorporate the information requirements of
22 these agencies so as to impose the least possible burden on
23 licensees. No other State agency may require submission of
24 financial data except as expressly authorized by law or as
25 necessary to meet requirements of federal statutes or
26 regulations. Information obtained under this Section shall be

1 made available, upon request, by the Department to any other
2 State agency or legislative commission to which such
3 information is necessary for investigations or required for the
4 purposes of State or federal law or regulation.

5 Section 3-209. Posting of information. Every facility
6 shall conspicuously post for display in an area of its offices
7 accessible to residents, employees, and visitors the
8 following:

9 (1) Its current license;

10 (2) A description, provided by the Department, of
11 complaint procedures established under this Act and the
12 name, address, and telephone number of a person authorized
13 by the Department to receive complaints;

14 (3) A copy of any order pertaining to the facility
15 issued by the Department or a court; and

16 (4) A list of the material available for public
17 inspection under Section 3-210.

18 Section 3-210. Materials for public inspection.

19 A facility shall retain the following for public
20 inspection:

21 (1) A complete copy of every inspection report of the
22 facility received from the Department during the past 5
23 years;

24 (2) A copy of every order pertaining to the facility

1 issued by the Department or a court during the past 5
2 years;

3 (3) A description of the services provided by the
4 facility and the rates charged for those services and items
5 for which a resident may be separately charged;

6 (4) A copy of the statement of ownership required by
7 Section 3-207;

8 (5) A record of personnel employed or retained by the
9 facility who are licensed, certified or registered by the
10 Department of Financial and Professional Regulation (as
11 successor to the Department of Professional Regulation);

12 (6) A complete copy of the most recent inspection
13 report of the facility received from the Department; and

14 (7) A copy of the current Consumer Choice Information
15 Report required by Section 2-214.

16 Section 3-211. No State or federal funds to unlicensed
17 facility. No State or federal funds which are appropriated by
18 the General Assembly or which pass through the General Revenue
19 Fund or any special fund in the State Treasury shall be paid to
20 a facility not having a license issued under this Act.

21 Section 3-212. Inspection of facility by Department;
22 report.

23 (a) The Department, whenever it deems necessary in
24 accordance with subsection (b), shall inspect, survey and

1 evaluate every facility to determine compliance with
2 applicable licensure requirements and standards. Submission of
3 a facility's current Consumer Choice Information Report
4 required by Section 2-214 shall be verified at the time of
5 inspection. An inspection should occur within 120 days prior to
6 license renewal. The Department may periodically visit a
7 facility for the purpose of consultation. An inspection,
8 survey, or evaluation, other than an inspection of financial
9 records, shall be conducted without prior notice to the
10 facility. A visit for the sole purpose of consultation may be
11 announced. The Department shall provide training to surveyors
12 about the appropriate assessment, care planning, and care of
13 persons with mental illness (other than Alzheimer's disease or
14 related disorders) to enable its surveyors to determine whether
15 a facility is complying with State and federal requirements
16 about the assessment, care planning, and care of those persons.

17 (a-1) An employee of a State or unit of local government
18 agency charged with inspecting, surveying, and evaluating
19 facilities who directly or indirectly gives prior notice of an
20 inspection, survey, or evaluation, other than an inspection of
21 financial records, to a facility or to an employee of a
22 facility is guilty of a Class A misdemeanor. An inspector or an
23 employee of the Department who intentionally prenotifies a
24 facility, orally or in writing, of a pending complaint
25 investigation or inspection shall be guilty of a Class A
26 misdemeanor. Superiors of persons who have prenotified a

1 facility shall be subject to the same penalties, if they have
2 knowingly allowed the prenotification. A person found guilty of
3 prenotifying a facility shall be subject to disciplinary action
4 by his or her employer. If the Department has a good faith
5 belief, based upon information that comes to its attention,
6 that a violation of this subsection has occurred, it must file
7 a complaint with the Attorney General or the State's Attorney
8 in the county where the violation took place within 30 days
9 after discovery of the information.

10 (a-2) An employee of a State or unit of local government
11 agency charged with inspecting, surveying, or evaluating
12 facilities who willfully profits from violating the
13 confidentiality of the inspection, survey, or evaluation
14 process shall be guilty of a Class 4 felony and that conduct
15 shall be deemed unprofessional conduct that may subject a
16 person to loss of his or her professional license. An action to
17 prosecute a person for violating this subsection (a-2) may be
18 brought by either the Attorney General or the State's Attorney
19 in the county where the violation took place.

20 (b) In determining whether to make more than the required
21 number of unannounced inspections, surveys and evaluations of a
22 facility the Department shall consider one or more of the
23 following: previous inspection reports; the facility's history
24 of compliance with standards, rules and regulations
25 promulgated under this Act and correction of violations,
26 penalties or other enforcement actions; the number and severity

1 of complaints received about the facility; any allegations of
2 resident abuse or neglect; weather conditions; health
3 emergencies; other reasonable belief that deficiencies exist.

4 (b-1) The Department shall not be required to determine
5 whether a facility certified to participate in the Medicare
6 program under Title XVIII of the Social Security Act, or the
7 Medicaid program under Title XIX of the Social Security Act,
8 and which the Department determines by inspection under this
9 Section or under Section 3-702 of this Act to be in compliance
10 with the certification requirements of Title XVIII or XIX, is
11 in compliance with any requirement of this Act that is less
12 stringent than or duplicates a federal certification
13 requirement. In accordance with subsection (a) of this Section
14 or subsection (d) of Section 3-702, the Department shall
15 determine whether a certified facility is in compliance with
16 requirements of this Act that exceed federal certification
17 requirements. If a certified facility is found to be out of
18 compliance with federal certification requirements, the
19 results of an inspection conducted pursuant to Title XVIII or
20 XIX of the Social Security Act may be used as the basis for
21 enforcement remedies authorized and commenced, with the
22 Department's discretion to evaluate whether penalties are
23 warranted, under this Act. Enforcement of this Act against a
24 certified facility shall be commenced pursuant to the
25 requirements of this Act, unless enforcement remedies sought
26 pursuant to Title XVIII or XIX of the Social Security Act

1 exceed those authorized by this Act. As used in this
2 subsection, "enforcement remedy" means a sanction for
3 violating a federal certification requirement or this Act.

4 (c) Upon completion of each inspection, survey and
5 evaluation, the appropriate Department personnel who conducted
6 the inspection, survey or evaluation shall submit a copy of
7 their report to the licensee upon exiting the facility, and
8 shall submit the actual report to the appropriate regional
9 office of the Department. Such report and any recommendations
10 for action by the Department under this Act shall be
11 transmitted to the appropriate offices of the associate
12 director of the Department, together with related comments or
13 documentation provided by the licensee which may refute
14 findings in the report, which explain extenuating
15 circumstances that the facility could not reasonably have
16 prevented, or which indicate methods and timetables for
17 correction of deficiencies described in the report. Without
18 affecting the application of subsection (a) of Section 3-303,
19 any documentation or comments of the licensee shall be provided
20 within 10 days of receipt of the copy of the report. Such
21 report shall recommend to the Director appropriate action under
22 this Act with respect to findings against a facility. The
23 Director shall then determine whether the report's findings
24 constitute a violation or violations of which the facility must
25 be given notice. Such determination shall be based upon the
26 severity of the finding, the danger posed to resident health

1 and safety, the comments and documentation provided by the
2 facility, the diligence and efforts to correct deficiencies,
3 correction of the reported deficiencies, the frequency and
4 duration of similar findings in previous reports and the
5 facility's general inspection history. The Department shall
6 determine violations under this subsection no later than 90
7 days after completion of each inspection, survey and
8 evaluation.

9 (d) The Department shall maintain all inspection, survey
10 and evaluation reports for at least 5 years in a manner
11 accessible to and understandable by the public.

12 (e) The Department shall conduct a revisit to its licensure
13 and certification surveys, consistent with federal regulations
14 and guidelines.

15 Section 3-213. Periodic reports to Department. The
16 Department shall require periodic reports and shall have access
17 to and may reproduce or photocopy at its cost any books,
18 records, and other documents maintained by the facility to the
19 extent necessary to carry out this Act and the rules
20 promulgated under this Act. The Department shall not divulge or
21 disclose the contents of a record under this Section in
22 violation of Section 2-206 or as otherwise prohibited by this
23 Act.

24 Section 3-214. Consent to Department inspection. Any

1 holder of a license or applicant for a license shall be deemed
2 to have given consent to any authorized officer, employee or
3 agent of the Department to enter and inspect the facility in
4 accordance with this Article. Refusal to permit such entry or
5 inspection shall constitute grounds for denial, nonrenewal or
6 revocation of a license as provided in Section 3-117 or 3-119
7 of this Act.

8 Section 3-215. Annual report on facility by Department. The
9 Department shall make at least one report on each facility in
10 the State annually, unless the facility has been issued a
11 2-year license under subsection (b) of Section 3-110 for which
12 the report shall be made every 2 years. All conditions and
13 practices not in compliance with applicable standards within
14 the report period shall be specifically stated. If a violation
15 is corrected or is subject to an approved plan of correction,
16 the same shall be specified in the report. The Department shall
17 send a copy to any person on receiving a written request. The
18 Department may charge a reasonable fee to cover copying costs.

19 Section 3-216. Fire inspections; authority.

20 (a) (Blank).

21 (b) For facilities licensed under this Act, the Office of
22 the State Fire Marshal shall provide the necessary fire
23 inspection to comply with licensing requirements. The Office of
24 the State Fire Marshal may enter into an agreement with another

1 State agency to conduct this inspection if qualified personnel
2 are employed by that agency. Code enforcement inspection of the
3 facility by the local authority shall only occur if the local
4 authority having jurisdiction enforces code requirements that
5 are more stringent than those enforced by the State Fire
6 Marshal. Nothing in this Section shall prohibit a local fire
7 authority from conducting fire incident planning activities.

8 PART 3. VIOLATIONS AND PENALTIES

9 Section 3-301. Notice of violation of Act or rules. If
10 after receiving the report specified in subsection (c) of
11 Section 3-212 the Director or his or her designee determines
12 that a facility is in violation of this Act or of any rule
13 promulgated thereunder, the Director or his or her designee
14 shall serve a notice of violation upon the licensee within 10
15 days thereafter. Each notice of violation shall be prepared in
16 writing and shall specify the nature of the violation, and the
17 statutory provision or rule alleged to have been violated. The
18 notice shall inform the licensee of any action the Department
19 may take under the Act, including the requirement of a facility
20 plan of correction under Section 3-303; placement of the
21 facility on a list prepared under Section 3-304; assessment of
22 a penalty under Section 3-305; a conditional license under
23 Sections 3-311 through 3-317; or license suspension or
24 revocation under Section 3-119. The Director or his or her

1 designee shall also inform the licensee of rights to a hearing
2 under Section 3-703.

3 Section 3-302. Each day a separate violation. Each day the
4 violation exists after the date upon which a notice of
5 violation is served under Section 3-301 shall constitute a
6 separate violation for purposes of assessing penalties or fines
7 under Section 3-305. The submission of a plan of correction
8 pursuant to subsection (b) of Section 3-303 does not prohibit
9 or preclude the Department from assessing penalties or fines
10 pursuant to Section 3-305 for those violations found to be
11 valid except as provided under Section 3-308 in relation to
12 Type "B" violations. No penalty or fine may be assessed for a
13 condition for which the facility has received a variance or
14 waiver of a standard.

15 Section 3-303. Correction of violations; hearing.

16 (a) The situation, condition or practice constituting a
17 Type "AA" violation or a Type "A" violation shall be abated or
18 eliminated immediately unless a fixed period of time, not
19 exceeding 15 days, as determined by the Department and
20 specified in the notice of violation, is required for
21 correction.

22 (b) At the time of issuance of a notice of a Type "B"
23 violation, the Department shall request a plan of correction
24 which is subject to the Department's approval. The facility

1 shall have 10 days after receipt of notice of violation in
2 which to prepare and submit a plan of correction. The
3 Department may extend this period up to 30 days where
4 correction involves substantial capital improvement. The plan
5 shall include a fixed time period not in excess of 90 days
6 within which violations are to be corrected. If the Department
7 rejects a plan of correction, it shall send notice of the
8 rejection and the reason for the rejection to the facility. The
9 facility shall have 10 days after receipt of the notice of
10 rejection in which to submit a modified plan. If the modified
11 plan is not timely submitted, or if the modified plan is
12 rejected, the facility shall follow an approved plan of
13 correction imposed by the Department.

14 (c) If the violation has been corrected prior to submission
15 and approval of a plan of correction, the facility may submit a
16 report of correction in place of a plan of correction. Such
17 report shall be signed by the administrator under oath.

18 (d) Upon a licensee's petition, the Department shall
19 determine whether to grant a licensee's request for an extended
20 correction time. Such petition shall be served on the
21 Department prior to expiration of the correction time
22 originally approved. The burden of proof is on the petitioning
23 facility to show good cause for not being able to comply with
24 the original correction time approved.

25 (e) If a facility desires to contest any Department action
26 under this Section it shall send a written request for a

1 hearing under Section 3-703 to the Department within 10 days of
2 receipt of notice of the contested action. The Department shall
3 commence the hearing as provided under Section 3-703. Whenever
4 possible, all action of the Department under this Section
5 arising out of a violation shall be contested and determined at
6 a single hearing. Issues decided after a hearing may not be
7 reheard at subsequent hearings under this Section.

8 Section 3-303.1. Waiver of facility's compliance with rule
9 or standard. Upon application by a facility, the Director may
10 grant or renew the waiver of the facility's compliance with a
11 rule or standard for a period not to exceed the duration of the
12 current license or, in the case of an application for license
13 renewal, the duration of the renewal period. The waiver may be
14 conditioned upon the facility taking action prescribed by the
15 Director as a measure equivalent to compliance. In determining
16 whether to grant or renew a waiver, the Director shall consider
17 the duration and basis for any current waiver with respect to
18 the same rule or standard and the validity and effect upon
19 patient health and safety of extending it on the same basis,
20 the effect upon the health and safety of residents, the quality
21 of resident care, the facility's history of compliance with the
22 rules and standards of this Act and the facility's attempts to
23 comply with the particular rule or standard in question. The
24 Department may provide, by rule, for the automatic renewal of
25 waivers concerning physical plant requirements upon the

1 renewal of a license. The Department shall renew waivers
2 relating to physical plant standards issued pursuant to this
3 Section at the time of the indicated reviews, unless it can
4 show why such waivers should not be extended for the following
5 reasons:

6 (a) the condition of the physical plant has deteriorated or
7 its use substantially changed so that the basis upon which the
8 waiver was issued is materially different; or

9 (b) the facility is renovated or substantially remodeled in
10 such a way as to permit compliance with the applicable rules
11 and standards without substantial increase in cost. A copy of
12 each waiver application and each waiver granted or renewed
13 shall be on file with the Department and available for public
14 inspection. The Director shall annually review such file and
15 recommend to the DD Facility Advisory Board established under
16 Section 2-204 of this Act any modification in rules or
17 standards suggested by the number and nature of waivers
18 requested and granted and the difficulties faced in compliance
19 by similarly situated facilities.

20 Section 3-303.2. Administrative warning.

21 (a) If the Department finds a situation, condition or
22 practice which violates this Act or any rule promulgated
23 thereunder which does not constitute a Type "AA", Type "A",
24 Type "B", or Type "C" violation, the Department shall issue an
25 administrative warning. Any administrative warning shall be

1 served upon the facility in the same manner as the notice of
2 violation under Section 3-301. The facility shall be
3 responsible for correcting the situation, condition or
4 practice; however, no written plan of correction need be
5 submitted for an administrative warning, except for violations
6 of Sections 3-401 through 3-413 or the rules promulgated
7 thereunder. A written plan of correction is required to be
8 filed for an administrative warning issued for violations of
9 Sections 3-401 through 3-413 or the rules promulgated
10 thereunder.

11 (b) If, however, the situation, condition or practice which
12 resulted in the issuance of an administrative warning, with the
13 exception of administrative warnings issued pursuant to
14 Sections 3-401 through 3-413 or the rules promulgated
15 thereunder, is not corrected by the next on site inspection by
16 the Department which occurs no earlier than 90 days from the
17 issuance of the administrative warning, a written plan of
18 correction must be submitted in the same manner as provided in
19 subsection (b) of Section 3-303.

20 Section 3-304. Quarterly list of facilities against which
21 Department has taken action.

22 (a) The Department shall prepare on a quarterly basis a
23 list containing the names and addresses of all facilities
24 against which the Department during the previous quarter has:

25 (1) sent a notice under Section 3-307 regarding a

1 penalty assessment under subsection (1) of Section 3-305;

2 (2) sent a notice of license revocation under Section
3 3-119;

4 (3) sent a notice refusing renewal of a license under
5 Section 3-119;

6 (4) sent a notice to suspend a license under Section
7 3-119;

8 (5) issued a conditional license for violations that
9 have not been corrected under Section 3-303 or penalties or
10 fines described under Section 3-305 have been assessed
11 under Section 3-307 or 3-308;

12 (6) placed a monitor under subsections (a), (b) and (c)
13 of Section 3-501 and under subsection (d) of such Section
14 where license revocation or nonrenewal notices have also
15 been issued;

16 (7) initiated an action to appoint a receiver;

17 (8) recommended to the Director of Healthcare and
18 Family Services, or the Secretary of the United States
19 Department of Health and Human Services, the
20 decertification for violations in relation to patient care
21 of a facility pursuant to Titles XVIII and XIX of the
22 federal Social Security Act.

23 (b) In addition to the name and address of the facility,
24 the list shall include the name and address of the person or
25 licensee against whom the action has been initiated, a self
26 explanatory summary of the facts which warranted the initiation

1 of each action, the type of action initiated, the date of the
2 initiation of the action, the amount of the penalty sought to
3 be assessed, if any, and the final disposition of the action,
4 if completed.

5 (c) The list shall be available to any member of the public
6 upon oral or written request without charge.

7 Section 3-304.1. Public computer access to information.

8 (a) The Department must make information regarding nursing
9 homes in the State available to the public in electronic form
10 on the World Wide Web, including all of the following
11 information:

12 (1) who regulates facilities licensed under this Act;

13 (2) information in the possession of the Department
14 that is listed in Sections 3-210 and 3-304;

15 (3) deficiencies and plans of correction;

16 (4) enforcement remedies;

17 (5) penalty letters;

18 (6) designation of penalty monies;

19 (7) the U.S. Department of Health and Human Services'
20 Health Care Financing Administration special projects or
21 federally required inspections;

22 (8) advisory standards;

23 (9) deficiency free surveys;

24 (10) enforcement actions and enforcement summaries;

25 and

1 (11) distressed facilities.

2 (b) No fee or other charge may be imposed by the Department
3 as a condition of accessing the information.

4 (c) The electronic public access provided through the World
5 Wide Web shall be in addition to any other electronic or print
6 distribution of the information.

7 (d) The information shall be made available as provided in
8 this Section in the shortest practicable time after it is
9 publicly available in any other form.

10 Section 3-304.2. Designation of distressed facilities.

11 (a) The Department shall, by rule, adopt criteria to
12 identify facilities that are distressed and shall publish this
13 list quarterly. No facility shall be identified as a distressed
14 facility unless it has committed violations or deficiencies
15 that have actually harmed residents.

16 (b) The Department shall notify each facility and licensee
17 of its distressed designation and of the calculation on which
18 it is based.

19 (c) A distressed facility may contract with an independent
20 consultant meeting criteria established by the Department. If
21 the distressed facility does not seek the assistance of an
22 independent consultant, then the Department shall place a
23 monitor or a temporary manager in the facility, depending on
24 the Department's assessment of the condition of the facility.

25 (d) A facility that has been designated a distressed

1 facility may contract with an independent consultant to develop
2 and assist in the implementation of a plan of improvement to
3 bring and keep the facility in compliance with this Act and, if
4 applicable, with federal certification requirements. A
5 facility that contracts with an independent consultant shall
6 have 90 days to develop a plan of improvement and demonstrate a
7 good faith effort at implementation, and another 90 days to
8 achieve compliance and take whatever additional actions are
9 called for in the improvement plan to maintain compliance in
10 this subsection (d). "Independent" consultant means an
11 individual who has no professional or financial relationship
12 with the facility, any person with a reportable ownership
13 interest in the facility, or any related parties. In this
14 subsection (d), "related parties" has the meaning attributed to
15 it in the instructions for completing Medicaid cost reports.

16 (e) A distressed facility that does not contract with a
17 consultant shall be assigned a monitor or a temporary manager
18 at the Department's discretion. The cost of the temporary
19 manager shall be paid by the Department. The authority afforded
20 the temporary manager shall be determined through rulemaking.

21 If a distressed facility that contracts with an independent
22 consultant but does not, in a timely manner, develop an
23 adequate plan of improvement or comply with the plan of
24 improvement, then the Department may place a monitor in the
25 facility.

26 Nothing in this Section shall limit the authority of the

1 Department to place a monitor in a distressed facility if
2 otherwise justified by law.

3 (f) The Department shall by rule establish a mentor program
4 for owners of distressed facilities. That a mentor program does
5 not exist, or that a mentor is not available to assist a
6 distressed facility, shall not delay or prevent the imposition
7 of any penalties on a distressed facility, authorized by this
8 Act.

9 Section 3-305. Penalties or fines. The license of a
10 facility which is in violation of this Act or any rule adopted
11 thereunder may be subject to the penalties or fines levied by
12 the Department as specified in this Section.

13 (1) A licensee who commits a Type "AA" violation as
14 defined in Section 1-128.5 is automatically issued a
15 conditional license for a period of 6 months to coincide
16 with an acceptable plan of correction and assessed a fine
17 of up to \$25,000 per violation. For a facility licensed to
18 provide care to fewer than 100 residents, but no less than
19 17 residents, the fine shall be up to \$18,500 per
20 violation. For a facility licensed to provide care to fewer
21 than 17 residents, the fine shall be up to \$12,500 per
22 violation.

23 (1.5) A licensee who commits a Type "A" violation as
24 defined in Section 1-129 is automatically issued a
25 conditional license for a period of 6 months to coincide

1 with an acceptable plan of correction and assessed a fine
2 of up to \$12,500 per violation. For a facility licensed to
3 provide care to fewer than 100 residents, but no less than
4 17 residents, the fine shall be up to \$10,000 per
5 violation. For a facility licensed to provide care to fewer
6 than 17 residents, the fine shall be up to \$6,250 per
7 violation.

8 (2) A licensee who commits a Type "B" violation as
9 defined in Section 1-130 shall be assessed a fine of up to
10 \$1,100 per violation. For a facility licensed to provide
11 care to fewer than 100 residents, but no less than 17
12 residents, the fine shall be up to \$750 per violation. For
13 a facility licensed to provide care to fewer than 17
14 residents, the fine shall be up to \$550 per violation.

15 (2.5) A licensee who commits 8 or more Type "C"
16 violations as defined in Section 1-132 in a single survey
17 shall be assessed a fine of up to \$250 per violation. A
18 facility licensed to provide care to fewer than 100
19 residents, but no less than 17 residents, that commits 8 or
20 more Type "C" violations in a single survey, shall be
21 assessed a fine of up to \$200 per violation. A facility
22 licensed to provide care to fewer than 17 residents, that
23 commits 8 or more Type "C" violations in a single survey,
24 shall be assessed a fine of up to \$175 per violation.

25 (3) A licensee who commits a Type "AA" or Type "A"
26 violation as defined in Section 1-128.5 or 1-129 which

1 continues beyond the time specified in paragraph (a) of
2 Section 3-303 which is cited as a repeat violation shall
3 have its license revoked and shall be assessed a fine of 3
4 times the fine computed under subsection (1).

5 (4) A licensee who fails to satisfactorily comply with
6 an accepted plan of correction for a Type "B" violation or
7 an administrative warning issued pursuant to Sections
8 3-401 through 3-413 or the rules promulgated thereunder
9 shall be automatically issued a conditional license for a
10 period of not less than 6 months. A second or subsequent
11 acceptable plan of correction shall be filed. A fine shall
12 be assessed in accordance with subsection (2) when cited
13 for the repeat violation. This fine shall be computed for
14 all days of the violation, including the duration of the
15 first plan of correction compliance time.

16 (5) (Blank).

17 (6) When the Department finds that a provision of
18 Article II has been violated with regard to a particular
19 resident, the Department shall issue an order requiring the
20 facility to reimburse the resident for injuries incurred,
21 or \$100, whichever is greater. In the case of a violation
22 involving any action other than theft of money belonging to
23 a resident, reimbursement shall be ordered only if a
24 provision of Article II has been violated with regard to
25 that or any other resident of the facility within the 2
26 years immediately preceding the violation in question.

1 (7) For purposes of assessing fines under this Section,
2 a repeat violation shall be a violation which has been
3 cited during one inspection of the facility for which an
4 accepted plan of correction was not complied with or a new
5 citation of the same rule if the licensee is not
6 substantially addressing the issue routinely throughout
7 the facility.

8 (8) If an occurrence results in more than one type of
9 violation as defined in this Act (that is, a Type "AA",
10 Type "A", Type "B", or Type "C" violation), then the
11 maximum fine that may be assessed for that occurrence is
12 the maximum fine that may be assessed for the most serious
13 type of violation charged. For purposes of the preceding
14 sentence, a Type "AA" violation is the most serious type of
15 violation that may be charged, followed by a Type "A", Type
16 "B", or Type "C" violation, in that order.

17 (9) If any facility willfully makes a misstatement of
18 fact to the Department or willfully fails to make a
19 required notification to the Department and that
20 misstatement or failure delays the start of a survey or
21 impedes a survey, then it will constitute a Type "B"
22 violation. The minimum and maximum fines that may be
23 assessed pursuant to this subsection (9) shall be 3 times
24 those otherwise specified for any facility.

25 (10) If the Department finds that a facility has
26 violated a provision of the Illinois Administrative Code

1 that has a high-risk designation or that a facility has
2 violated the same provision of the Illinois Administrative
3 Code 3 or more times in the previous 12 months, then the
4 Department may assess a fine of up to 2 times the maximum
5 fine otherwise allowed.

6 Section 3-306. Factors to be considered in determining
7 penalty. In determining whether a penalty is to be imposed and
8 in determining the amount of the penalty to be imposed, if any,
9 for a violation, the Director shall consider the following
10 factors:

11 (1) The gravity of the violation, including the
12 probability that death or serious physical or mental harm
13 to a resident will result or has resulted; the severity of
14 the actual or potential harm, and the extent to which the
15 provisions of the applicable statutes or regulations were
16 violated;

17 (2) The reasonable diligence exercised by the licensee
18 and efforts to correct violations;

19 (3) Any previous violations committed by the licensee;
20 and

21 (4) The financial benefit to the facility of committing
22 or continuing the violation.

23 Section 3-307. Assessment of penalties; notice. The
24 Director may directly assess penalties provided for under

1 Section 3-305 of this Act. If the Director determines that a
2 penalty should be assessed for a particular violation or for
3 failure to correct it, the Director shall send a notice to the
4 facility. The notice shall specify the amount of the penalty
5 assessed, the violation, the statute or rule alleged to have
6 been violated, and shall inform the licensee of the right to
7 hearing under Section 3-703 of this Act. If the violation is
8 continuing, the notice shall specify the amount of additional
9 assessment per day for the continuing violation.

10 Section 3-308. Time of assessment; plan of correction. In
11 the case of a Type "AA" or Type "A" violation, a penalty may be
12 assessed from the date on which the violation is discovered. In
13 the case of a Type "B" or Type "C" violation or an
14 administrative warning issued pursuant to Sections 3-401
15 through 3-413 or the rules promulgated thereunder, the facility
16 shall submit a plan of correction as provided in Section 3-303.
17 In the case of a Type "B" violation or an administrative
18 warning issued pursuant to Sections 3-401 through 3-413 or the
19 rules promulgated thereunder, a penalty shall be assessed on
20 the date of notice of the violation, but the Director may
21 reduce the amount or waive such payment for any of the
22 following reasons:

23 (a) The facility submits a true report of correction within
24 10 days;

25 (b) The facility submits a plan of correction within 10

1 days and subsequently submits a true report of correction
2 within 15 days thereafter;

3 (c) The facility submits a plan of correction within 10
4 days which provides for a correction time that is less than or
5 equal to 30 days and the Department approves such plan; or

6 (d) The facility submits a plan of correction for
7 violations involving substantial capital improvements which
8 provides for correction within the initial 90 day limit
9 provided under Section 3-303. The Director shall consider the
10 following factors in determinations to reduce or waive such
11 penalties:

12 (1) The violation has not caused actual harm to a
13 resident;

14 (2) The facility has made a diligent effort to correct
15 the violation and to prevent its recurrence;

16 (3) The facility has no record of a pervasive pattern
17 of the same or similar violations; and

18 (4) The facility has a record of substantial compliance
19 with this Act and the regulations promulgated hereunder.

20 If a plan of correction is approved and carried out for a
21 Type "C" violation, the fine provided under Section 3-305 shall
22 be suspended for the time period specified in the approved plan
23 of correction. If a plan of correction is approved and carried
24 out for a Type "B" violation or an administrative warning
25 issued pursuant to Sections 3-401 through 3-413 or the rules
26 promulgated thereunder, with respect to a violation that

1 continues after the date of notice of violation, the fine
2 provided under Section 3-305 shall be suspended for the time
3 period specified in the approved plan of correction.

4 If a good faith plan of correction is not received within
5 the time provided by Section 3-303, a penalty may be assessed
6 from the date of the notice of the Type "B" or "C" violation or
7 an administrative warning issued pursuant to Sections 3-401
8 through 3-413 or the rules promulgated thereunder served under
9 Section 3-301 until the date of the receipt of a good faith
10 plan of correction, or until the date the violation is
11 corrected, whichever is earlier. If a violation is not
12 corrected within the time specified by an approved plan of
13 correction or any lawful extension thereof, a penalty may be
14 assessed from the date of notice of the violation, until the
15 date the violation is corrected.

16 Section 3-309. Contesting assessment of penalty. A
17 facility may contest an assessment of a penalty by sending a
18 written request to the Department for hearing under Section
19 3-703. Upon receipt of the request the Department shall hold a
20 hearing as provided under Section 3-703. Instead of requesting
21 a hearing pursuant to Section 3-703, a facility may, within 10
22 business days after receipt of the notice of violation and fine
23 assessment, transmit to the Department 65% of the amount
24 assessed for each violation specified in the penalty
25 assessment.

1 Section 3-310. Collection of penalties. All penalties
2 shall be paid to the Department within 10 days of receipt of
3 notice of assessment or, if the penalty is contested under
4 Section 3-309, within 10 days of receipt of the final decision,
5 unless the decision is appealed and the order is stayed by
6 court order under Section 3-713. A facility choosing to waive
7 the right to a hearing under Section 3-309 shall submit a
8 payment totaling 65% of the original fine amount along with the
9 written waiver. A penalty assessed under this Act shall be
10 collected by the Department and shall be deposited with the
11 State Treasurer into the Long Term Care Monitor/Receiver Fund.
12 If the person or facility against whom a penalty has been
13 assessed does not comply with a written demand for payment
14 within 30 days, the Director shall issue an order to do any of
15 the following:

16 (1) Direct the State Treasurer or Comptroller to deduct
17 the amount of the fine from amounts otherwise due from the
18 State for the penalty, including any payments to be made
19 from the Care Provider Fund for Persons with a
20 Developmental Disability established under Section 5C-7 of
21 the Illinois Public Aid Code, and remit that amount to the
22 Department;

23 (2) Add the amount of the penalty to the facility's
24 licensing fee; if the licensee refuses to make the payment
25 at the time of application for renewal of its license, the

1 license shall not be renewed; or

2 (3) Bring an action in circuit court to recover the
3 amount of the penalty.

4 Section 3-311. Issuance of conditional license in addition
5 to penalties. In addition to the right to assess penalties
6 under this Act, the Director may issue a conditional license
7 under Section 3-305 to any facility if the Director finds that
8 either a Type "A" or Type "B" violation exists in such
9 facility. The issuance of a conditional license shall revoke
10 any license held by the facility.

11 Section 3-312. Plan of correction required before issuance
12 of conditional license. Prior to the issuance of a conditional
13 license, the Department shall review and approve a written plan
14 of correction. The Department shall specify the violations
15 which prevent full licensure and shall establish a time
16 schedule for correction of the deficiencies. Retention of the
17 license shall be conditional on the timely correction of the
18 deficiencies in accordance with the plan of correction.

19 Section 3-313. Notice of issuance of conditional license.
20 Written notice of the decision to issue a conditional license
21 shall be sent to the applicant or licensee together with the
22 specification of all violations of this Act and the rules
23 promulgated thereunder which prevent full licensure and which

1 form the basis for the Department's decision to issue a
2 conditional license and the required plan of correction. The
3 notice shall inform the applicant or licensee of its right to a
4 full hearing under Section 3-315 to contest the issuance of the
5 conditional license.

6 Section 3-315. Hearing on conditional license or plan of
7 correction. If the applicant or licensee desires to contest the
8 basis for issuance of a conditional license, or the terms of
9 the plan of correction, the applicant or licensee shall send a
10 written request for hearing to the Department within 10 days
11 after receipt by the applicant or licensee of the Department's
12 notice and decision to issue a conditional license. The
13 Department shall hold the hearing as provided under Section
14 3-703.

15 Section 3-316. Period of conditional license. A
16 conditional license shall be issued for a period specified by
17 the Department, but in no event for more than one year. The
18 Department shall periodically inspect any facility operating
19 under a conditional license. If the Department finds
20 substantial failure by the facility to timely correct the
21 violations which prevented full licensure and formed the basis
22 for the Department's decision to issue a conditional license in
23 accordance with the required plan of correction, the
24 conditional license may be revoked as provided under Section

1 3-119.

2 Section 3-318. Business offenses.

3 (a) No person shall:

4 (1) Intentionally fail to correct or interfere with the
5 correction of a Type "AA", Type "A", or Type "B" violation
6 within the time specified on the notice or approved plan of
7 correction under this Act as the maximum period given for
8 correction, unless an extension is granted and the
9 corrections are made before expiration of extension;

10 (2) Intentionally prevent, interfere with, or attempt
11 to impede in any way any duly authorized investigation and
12 enforcement of this Act;

13 (3) Intentionally prevent or attempt to prevent any
14 examination of any relevant books or records pertinent to
15 investigations and enforcement of this Act;

16 (4) Intentionally prevent or interfere with the
17 preservation of evidence pertaining to any violation of
18 this Act or the rules promulgated under this Act;

19 (5) Intentionally retaliate or discriminate against
20 any resident or employee for contacting or providing
21 information to any state official, or for initiating,
22 participating in, or testifying in an action for any remedy
23 authorized under this Act;

24 (6) Willfully file any false, incomplete or
25 intentionally misleading information required to be filed

1 under this Act, or willfully fail or refuse to file any
2 required information; or

3 (7) Open or operate a facility without a license.

4 (b) A violation of this Section is a business offense,
5 punishable by a fine not to exceed \$10,000, except as otherwise
6 provided in subsection (2) of Section 3-103 as to submission of
7 false or misleading information in a license application.

8 (c) The State's Attorney of the county in which the
9 facility is located, or the Attorney General, shall be notified
10 by the Director of any violations of this Section.

11 Section 3-320. Review under Administrative Review Law. All
12 final administrative decisions of the Department under this Act
13 are subject to judicial review under the Administrative Review
14 Law, as now or hereafter amended, and the rules adopted
15 pursuant thereto. The term "administrative decision" is
16 defined as in Section 3-101 of the Code of Civil Procedure.

17 PART 4. DISCHARGE AND TRANSFER

18 Section 3-401. Involuntary transfer or discharge of
19 resident. A facility may involuntarily transfer or discharge a
20 resident only for one or more of the following reasons:

21 (a) for medical reasons;

22 (b) for the resident's physical safety;

23 (c) for the physical safety of other residents, the

1 facility staff or facility visitors; or

2 (d) for either late payment or nonpayment for the
3 resident's stay, except as prohibited by Titles XVIII and XIX
4 of the federal Social Security Act. For purposes of this
5 Section, "late payment" means non-receipt of payment after
6 submission of a bill. If payment is not received within 45 days
7 after submission of a bill, a facility may send a notice to the
8 resident and responsible party requesting payment within 30
9 days. If payment is not received within such 30 days, the
10 facility may thereupon institute transfer or discharge
11 proceedings by sending a notice of transfer or discharge to the
12 resident and responsible party by registered or certified mail.
13 The notice shall state, in addition to the requirements of
14 Section 3-403 of this Act, that the responsible party has the
15 right to pay the amount of the bill in full up to the date the
16 transfer or discharge is to be made and then the resident shall
17 have the right to remain in the facility. Such payment shall
18 terminate the transfer or discharge proceedings. This
19 subsection does not apply to those residents whose care is
20 provided for under the Illinois Public Aid Code. The Department
21 shall adopt rules setting forth the criteria and procedures to
22 be applied in cases of involuntary transfer or discharge
23 permitted under this Section.

24 Section 3-401.1. Medical assistance recipients.

25 (a) A facility participating in the Medical Assistance

1 Program is prohibited from failing or refusing to retain as a
2 resident any person because he or she is a recipient of or an
3 applicant for the Medical Assistance Program under Article V of
4 the Illinois Public Aid Code.

5 (a-5) A facility of which only a distinct part is certified
6 to participate in the Medical Assistance Program may refuse to
7 retain as a resident any person who resides in a part of the
8 facility that does not participate in the Medical Assistance
9 Program and who is unable to pay for his or her care in the
10 facility without Medical Assistance only if:

11 (1) the facility, no later than at the time of
12 admission and at the time of the resident's contract
13 renewal, explains to the resident (unless he or she is
14 incompetent), and to the resident's representative, and to
15 the person making payment on behalf of the resident for the
16 resident's stay, in writing, that the facility may
17 discharge the resident if the resident is no longer able to
18 pay for his or her care in the facility without Medical
19 Assistance; and

20 (2) the resident (unless he or she is incompetent), the
21 resident's representative, and the person making payment
22 on behalf of the resident for the resident's stay,
23 acknowledge in writing that they have received the written
24 explanation.

25 (a-10) For the purposes of this Section, a recipient or
26 applicant shall be considered a resident in the facility during

1 any hospital stay totaling 10 days or less following a hospital
2 admission. The Department of Healthcare and Family Services
3 shall recoup funds from a facility when, as a result of the
4 facility's refusal to readmit a recipient after
5 hospitalization for 10 days or less, the recipient incurs
6 hospital bills in an amount greater than the amount that would
7 have been paid by that Department for care of the recipient in
8 the facility. The amount of the recoupment shall be the
9 difference between the Department of Healthcare and Family
10 Services' payment for hospital care and the amount that
11 Department would have paid for care in the facility.

12 (b) A facility which violates this Section shall be guilty
13 of a business offense and fined not less than \$500 nor more
14 than \$1,000 for the first offense and not less than \$1,000 nor
15 more than \$5,000 for each subsequent offense.

16 Section 3-402. Notice of involuntary transfer or
17 discharge. Involuntary transfer or discharge of a resident from
18 a facility shall be preceded by the discussion required under
19 Section 3-408 and by a minimum written notice of 21 days,
20 except in one of the following instances:

21 (a) When an emergency transfer or discharge is ordered by
22 the resident's attending physician because of the resident's
23 health care needs.

24 (b) When the transfer or discharge is mandated by the
25 physical safety of other residents, the facility staff, or

1 facility visitors, as documented in the clinical record. The
2 Department shall be notified prior to any such involuntary
3 transfer or discharge. The Department shall immediately offer
4 transfer, or discharge and relocation assistance to residents
5 transferred or discharged under this subparagraph (b), and the
6 Department may place relocation teams as provided in Section
7 3-419 of this Act.

8 Section 3-403. Contents of notice; right to hearing. The
9 notice required by Section 3-402 shall be on a form prescribed
10 by the Department and shall contain all of the following:

11 (a) The stated reason for the proposed transfer or
12 discharge;

13 (b) The effective date of the proposed transfer or
14 discharge;

15 (c) A statement in not less than 12 point type, which
16 reads: "You have a right to appeal the facility's decision to
17 transfer or discharge you. If you think you should not have to
18 leave this facility, you may file a request for a hearing with
19 the Department of Public Health within 10 days after receiving
20 this notice. If you request a hearing, it will be held not
21 later than 10 days after your request, and you generally will
22 not be transferred or discharged during that time. If the
23 decision following the hearing is not in your favor, you
24 generally will not be transferred or discharged prior to the
25 expiration of 30 days following receipt of the original notice

1 of the transfer or discharge. A form to appeal the facility's
2 decision and to request a hearing is attached. If you have any
3 questions, call the Department of Public Health at the
4 telephone number listed below.";

5 (d) A hearing request form, together with a postage paid,
6 preaddressed envelope to the Department; and

7 (e) The name, address, and telephone number of the person
8 charged with the responsibility of supervising the transfer or
9 discharge.

10 Section 3-404. Request for hearing; effect on transfer. A
11 request for a hearing made under Section 3-403 shall stay a
12 transfer pending a hearing or appeal of the decision, unless a
13 condition which would have allowed transfer or discharge in
14 less than 21 days as described under paragraphs (a) and (b) of
15 Section 3-402 develops in the interim.

16 Section 3-405. Copy of notice in resident's record; copy to
17 Department. A copy of the notice required by Section 3-402
18 shall be placed in the resident's clinical record and a copy
19 shall be transmitted to the Department, the resident, and the
20 resident's representative.

21 Section 3-406. Medical assistance recipient; transfer or
22 discharge as result of action by Department of Healthcare and
23 Family Services. When the basis for an involuntary transfer or

1 discharge is the result of an action by the Department of
2 Healthcare and Family Services with respect to a recipient of
3 assistance under Title XIX of the Social Security Act and a
4 hearing request is filed with the Department of Healthcare and
5 Family Services, the 21-day written notice period shall not
6 begin until a final decision in the matter is rendered by the
7 Department of Healthcare and Family Services or a court of
8 competent jurisdiction and notice of that final decision is
9 received by the resident and the facility.

10 Section 3-407. Nonpayment as basis for transfer or
11 discharge. When nonpayment is the basis for involuntary
12 transfer or discharge, the resident shall have the right to
13 redeem up to the date that the discharge or transfer is to be
14 made and then shall have the right to remain in the facility.

15 Section 3-408. Discussion of planned transfer or
16 discharge. The planned involuntary transfer or discharge shall
17 be discussed with the resident, the resident's representative
18 and person or agency responsible for the resident's placement,
19 maintenance, and care in the facility. The explanation and
20 discussion of the reasons for involuntary transfer or discharge
21 shall include the facility administrator or other appropriate
22 facility representative as the administrator's designee. The
23 content of the discussion and explanation shall be summarized
24 in writing and shall include the names of the individuals

1 involved in the discussions and made a part of the resident's
2 clinical record.

3 Section 3-409. Counseling services. The facility shall
4 offer the resident counseling services before the transfer or
5 discharge of the resident.

6 Section 3-410. Request for hearing on transfer or
7 discharge. A resident subject to involuntary transfer or
8 discharge from a facility, the resident's guardian or if the
9 resident is a minor, his or her parent shall have the
10 opportunity to file a request for a hearing with the Department
11 within 10 days following receipt of the written notice of the
12 involuntary transfer or discharge by the facility.

13 Section 3-411. Hearing; time. The Department of Public
14 Health, when the basis for involuntary transfer or discharge is
15 other than action by the Department of Healthcare and Family
16 Services with respect to the Title XIX Medicaid recipient,
17 shall hold a hearing at the resident's facility not later than
18 10 days after a hearing request is filed, and render a decision
19 within 14 days after the filing of the hearing request.

20 Section 3-412. Conduct of hearing. The hearing before the
21 Department provided under Section 3-411 shall be conducted as
22 prescribed under Section 3-703. In determining whether a

1 transfer or discharge is authorized, the burden of proof in
2 this hearing rests on the person requesting the transfer or
3 discharge.

4 Section 3-413. Time for leaving facility. If the Department
5 determines that a transfer or discharge is authorized under
6 Section 3-401, the resident shall not be required to leave the
7 facility before the 34th day following receipt of the notice
8 required under Section 3-402, or the 10th day following receipt
9 of the Department's decision, whichever is later, unless a
10 condition which would have allowed transfer or discharge in
11 less than 21 days as described under paragraphs (a) and (b) of
12 Section 3-402 develops in the interim.

13 Section 3-414. Continuation of medical assistance funding.
14 The Department of Healthcare and Family Services shall continue
15 Title XIX Medicaid funding during the appeal, transfer, or
16 discharge period for those residents who are recipients of
17 assistance under Title XIX of the Social Security Act affected
18 by Section 3-401.

19 Section 3-415. Transfer or discharge by Department;
20 grounds. The Department may transfer or discharge any resident
21 from any facility required to be licensed under this Act when
22 any of the following conditions exist:

23 (a) Such facility is operating without a license;

1 (b) The Department has suspended, revoked or refused to
2 renew the license of the facility as provided under Section
3 3-119;

4 (c) The facility has requested the aid of the Department in
5 the transfer or discharge of the resident and the Department
6 finds that the resident consents to transfer or discharge;

7 (d) The facility is closing or intends to close and
8 adequate arrangement for relocation of the resident has not
9 been made at least 30 days prior to closure; or

10 (e) The Department determines that an emergency exists
11 which requires immediate transfer or discharge of the resident.

12 Section 3-416. Transfer or discharge by Department;
13 likelihood of serious harm. In deciding to transfer or
14 discharge a resident from a facility under Section 3-415, the
15 Department shall consider the likelihood of serious harm which
16 may result if the resident remains in the facility.

17 Section 3-417. Relocation assistance. The Department shall
18 offer transfer or discharge and relocation assistance to
19 residents transferred or discharged under Sections 3-401
20 through 3-415, including information on available alternative
21 placements. Residents shall be involved in planning the
22 transfer or discharge and shall choose among the available
23 alternative placements, except that where an emergency makes
24 prior resident involvement impossible the Department may make a

1 temporary placement until a final placement can be arranged.
2 Residents may choose their final alternative placement and
3 shall be given assistance in transferring to such place. No
4 resident may be forced to remain in a temporary or permanent
5 placement. Where the Department makes or participates in making
6 the relocation decision, consideration shall be given to
7 proximity to the resident's relatives and friends. The resident
8 shall be allowed 3 visits to potential alternative placements
9 prior to removal, except where medically contraindicated or
10 where the need for immediate transfer or discharge requires
11 reduction in the number of visits.

12 Section 3-418. Transfer or discharge plans. The Department
13 shall prepare resident transfer or discharge plans to assure
14 safe and orderly removals and protect residents' health,
15 safety, welfare and rights. In nonemergencies, and where
16 possible in emergencies, the Department shall design and
17 implement such plans in advance of transfer or discharge.

18 Section 3-419. Relocation teams. The Department may place
19 relocation teams in any facility from which residents are being
20 discharged or transferred for any reason, for the purpose of
21 implementing transfer or discharge plans.

22 Section 3-420. Transfer or discharge by Department;
23 notice. In any transfer or discharge conducted under Sections

1 3-415 through 3-418 the Department shall do the following:

2 (a) Provide written notice to the facility prior to the
3 transfer or discharge. The notice shall state the basis for the
4 order of transfer or discharge and shall inform the facility of
5 its right to an informal conference prior to transfer or
6 discharge under this Section, and its right to a subsequent
7 hearing under Section 3-422. If a facility desires to contest a
8 nonemergency transfer or discharge, prior to transfer or
9 discharge it shall, within 4 working days after receipt of the
10 notice, send a written request for an informal conference to
11 the Department. The Department shall, within 4 working days
12 from the receipt of the request, hold an informal conference in
13 the county in which the facility is located. Following this
14 conference, the Department may affirm, modify or overrule its
15 previous decision. Except in an emergency, transfer or
16 discharge may not begin until the period for requesting a
17 conference has passed or, if a conference is requested, until
18 after a conference has been held.

19 (b) Provide written notice to any resident to be removed,
20 to the resident's representative, if any, and to a member of
21 the resident's family, where practicable, prior to the removal.
22 The notice shall state the reason for which transfer or
23 discharge is ordered and shall inform the resident of the
24 resident's right to challenge the transfer or discharge under
25 Section 3-422. The Department shall hold an informal conference
26 with the resident or the resident's representative prior to

1 transfer or discharge at which the resident or the
2 representative may present any objections to the proposed
3 transfer or discharge plan or alternative placement.

4 Section 3-421. Notice of emergency. In any transfer or
5 discharge conducted under subsection (e) of Section 3-415, the
6 Department shall notify the facility and any resident to be
7 removed that an emergency has been found to exist and removal
8 has been ordered, and shall involve the residents in removal
9 planning if possible. Following emergency removal, the
10 Department shall provide written notice to the facility, to the
11 resident, to the resident's representative, if any, and to a
12 member of the resident's family, where practicable, of the
13 basis for the finding that an emergency existed and of the
14 right to challenge removal under Section 3-422.

15 Section 3-422. Hearing to challenge transfer or discharge.
16 Within 10 days following transfer or discharge, the facility or
17 any resident transferred or discharged may send a written
18 request to the Department for a hearing under Section 3-703 to
19 challenge the transfer or discharge. The Department shall hold
20 the hearing within 30 days of receipt of the request. The
21 hearing shall be held at the facility from which the resident
22 is being transferred or discharged, unless the resident or
23 resident's representative, requests an alternative hearing
24 site. If the facility prevails, it may file a claim against the

1 State under the Court of Claims Act for payments lost less
2 expenses saved as a result of the transfer or discharge. No
3 resident transferred or discharged may be held liable for the
4 charge for care which would have been made had the resident
5 remained in the facility. If a resident prevails, the resident
6 may file a claim against the State under the Court of Claims
7 Act for any excess expenses directly caused by the order to
8 transfer or discharge. The Department shall assist the resident
9 in returning to the facility if assistance is requested.

10 Section 3-423. Closure of facility; notice. Any owner of a
11 facility licensed under this Act shall give 90 days' notice
12 prior to voluntarily closing a facility or closing any part of
13 a facility, or prior to closing any part of a facility if
14 closing such part will require the transfer or discharge of
15 more than 10% of the residents. Such notice shall be given to
16 the Department, to any resident who must be transferred or
17 discharged, to the resident's representative, and to a member
18 of the resident's family, where practicable. Notice shall state
19 the proposed date of closing and the reason for closing. The
20 facility shall offer to assist the resident in securing an
21 alternative placement and shall advise the resident on
22 available alternatives. Where the resident is unable to choose
23 an alternate placement and is not under guardianship, the
24 Department shall be notified of the need for relocation
25 assistance. The facility shall comply with all applicable laws

1 and regulations until the date of closing, including those
2 related to transfer or discharge of residents. The Department
3 may place a relocation team in the facility as provided under
4 Section 3-419.

5 PART 5. MONITORS AND RECEIVERSHIP

6 Section 3-501. Monitor or receiver for facility; grounds.
7 The Department may place an employee or agent to serve as a
8 monitor in a facility or may petition the circuit court for
9 appointment of a receiver for a facility, or both, when any of
10 the following conditions exist:

11 (a) The facility is operating without a license;

12 (b) The Department has suspended, revoked or refused to
13 renew the existing license of the facility;

14 (c) The facility is closing or has informed the Department
15 that it intends to close and adequate arrangements for
16 relocation of residents have not been made at least 30 days
17 prior to closure;

18 (d) The Department determines that an emergency exists,
19 whether or not it has initiated revocation or nonrenewal
20 procedures, if because of the unwillingness or inability of the
21 licensee to remedy the emergency the Department believes a
22 monitor or receiver is necessary;

23 (e) The Department is notified that the facility is
24 terminated or will not be renewed for participation in the

1 federal reimbursement program under either Title XVIII or Title
2 XIX of the Social Security Act. As used in subsection (d) and
3 Section 3-503, "emergency" means a threat to the health, safety
4 or welfare of a resident that the facility is unwilling or
5 unable to correct;

6 (f) The facility has been designated a distressed facility
7 by the Department and does not have a consultant employed
8 pursuant to subsection (f) of Section 3-304.2 of this Act and
9 an acceptable plan of improvement, or the Department has reason
10 to believe the facility is not complying with the plan of
11 improvement. Nothing in this paragraph (f) shall preclude the
12 Department from placing a monitor in a facility if otherwise
13 justified by law; or

14 (g) At the discretion of the Department when a review of
15 facility compliance history, incident reports, or reports of
16 financial problems raises a concern that a threat to resident
17 health, safety, or welfare exists.

18 Section 3-502. Placement of monitor by Department. In any
19 situation described in Section 3-501, the Department may place
20 a qualified person to act as monitor in the facility. The
21 monitor shall observe operation of the facility, assist the
22 facility by advising it on how to comply with the State
23 regulations, and shall report periodically to the Department on
24 the operation of the facility. Once a monitor has been placed,
25 the Department may retain the monitor until it is satisfied

1 that the basis for the placement is resolved and the threat to
2 the health, safety, or welfare of a resident is not likely to
3 recur.

4 Section 3-503. Emergency; petition for receiver. Where a
5 resident, a resident's representative or a resident's next of
6 kin believes that an emergency exists each of them,
7 collectively or separately, may file a verified petition to the
8 circuit court in the county in which the facility is located
9 for an order placing the facility under the control of a
10 receiver.

11 Section 3-504. Hearing on petition for receiver; grounds
12 for appointment of receiver. The court shall hold a hearing
13 within 5 days of the filing of the petition. The petition and
14 notice of the hearing shall be served on the owner,
15 administrator or designated agent of the facility as provided
16 under the Civil Practice Law, or the petition and notice of
17 hearing shall be posted in a conspicuous place in the facility
18 not later than 3 days before the time specified for the
19 hearing, unless a different period is fixed by order of the
20 court. The court shall appoint a receiver if it finds that:

21 (a) The facility is operating without a license;

22 (b) The Department has suspended, revoked or refused to
23 renew the existing license of a facility;

24 (c) The facility is closing or has informed the Department

1 that it intends to close and adequate arrangements for
2 relocation of residents have not been made at least 30 days
3 prior to closure; or

4 (d) An emergency exists, whether or not the Department has
5 initiated revocation or nonrenewal procedures, if because of
6 the unwillingness or inability of the licensee to remedy the
7 emergency the appointment of a receiver is necessary.

8 Section 3-505. Emergency; time for hearing. If a petition
9 filed under Section 3-503 alleges that the conditions set out
10 in subsection 3-504(d) exist within a facility, the court may
11 set the matter for hearing at the earliest possible time. The
12 petitioner shall notify the licensee, administrator of the
13 facility, or registered agent of the licensee prior to the
14 hearing. Any form of written notice may be used. A receivership
15 shall not be established ex parte unless the court determines
16 that the conditions set out in subsection 3-504(d) exist in a
17 facility; that the licensee cannot be found; and that the
18 petitioner has exhausted all reasonable means of locating and
19 notifying the licensee, administrator or registered agent.

20 Section 3-506. Appointment of receiver. The court may
21 appoint any qualified person as a receiver, except it shall not
22 appoint any owner or affiliate of the facility which is in
23 receivership as its receiver. The Department shall maintain a
24 list of such persons to operate facilities which the court may

1 consider. The court shall give preference to licensed nursing
2 home administrators in appointing a receiver.

3 Section 3-507. Health, safety, and welfare of residents.
4 The receiver shall make provisions for the continued health,
5 safety and welfare of all residents of the facility.

6 Section 3-508. Receiver's powers and duties. A receiver
7 appointed under this Act:

8 (a) Shall exercise those powers and shall perform those
9 duties set out by the court.

10 (b) Shall operate the facility in such a manner as to
11 assure safety and adequate health care for the residents.

12 (c) Shall have the same rights to possession of the
13 building in which the facility is located and of all goods and
14 fixtures in the building at the time the petition for
15 receivership is filed as the owner would have had if the
16 receiver had not been appointed, and of all assets of the
17 facility. The receiver shall take such action as is reasonably
18 necessary to protect or conserve the assets or property of
19 which the receiver takes possession, or the proceeds from any
20 transfer thereof, and may use them only in the performance of
21 the powers and duties set forth in this Section and by order of
22 the court.

23 (d) May use the building, fixtures, furnishings and any
24 accompanying consumable goods in the provision of care and

1 services to residents and to any other persons receiving
2 services from the facility at the time the petition for
3 receivership was filed. The receiver shall collect payments for
4 all goods and services provided to residents or others during
5 the period of the receivership at the same rate of payment
6 charged by the owners at the time the petition for receivership
7 was filed.

8 (e) May correct or eliminate any deficiency in the
9 structure or furnishings of the facility which endangers the
10 safety or health of residents while they remain in the
11 facility, provided the total cost of correction does not exceed
12 \$3,000. The court may order expenditures for this purpose in
13 excess of \$3,000 on application from the receiver after notice
14 to the owner and hearing.

15 (f) May let contracts and hire agents and employees to
16 carry out the powers and duties of the receiver under this
17 Section.

18 (g) Except as specified in Section 3-510, shall honor all
19 leases, mortgages and secured transactions governing the
20 building in which the facility is located and all goods and
21 fixtures in the building of which the receiver has taken
22 possession, but only to the extent of payments which, in the
23 case of a rental agreement, are for the use of the property
24 during the period of the receivership, or which, in the case of
25 a purchase agreement, come due during the period of the
26 receivership.

1 (h) Shall have full power to direct and manage and to
2 discharge employees of the facility, subject to any contract
3 rights they may have. The receiver shall pay employees at the
4 same rate of compensation, including benefits, that the
5 employees would have received from the owner. Receivership does
6 not relieve the owner of any obligation to employees not
7 carried out by the receiver.

8 (i) Shall, if any resident is transferred or discharged,
9 follow the procedures set forth in Part 4 of this Article.

10 (j) Shall be entitled to and shall take possession of all
11 property or assets of residents which are in the possession of
12 a facility or its owner. The receiver shall preserve all
13 property, assets and records of residents of which the receiver
14 takes possession and shall provide for the prompt transfer of
15 the property, assets and records to the new placement of any
16 transferred resident.

17 (k) Shall report to the court on any actions he has taken
18 to bring the facility into compliance with this Act or with
19 Title XVIII or XIX of the Social Security Act that he believes
20 should be continued when the receivership is terminated in
21 order to protect the health, safety or welfare of the
22 residents.

23 Section 3-509. Payment for goods or services provided by
24 receiver.

25 (a) A person who is served with notice of an order of the

1 court appointing a receiver and of the receiver's name and
2 address shall be liable to pay the receiver for any goods or
3 services provided by the receiver after the date of the order
4 if the person would have been liable for the goods or services
5 as supplied by the owner. The receiver shall give a receipt for
6 each payment and shall keep a copy of each receipt on file. The
7 receiver shall deposit amounts received in a separate account
8 and shall use this account for all disbursements.

9 (b) The receiver may bring an action to enforce the
10 liability created by subsection (a) of this Section.

11 (c) A payment to the receiver of any sum owing to the
12 facility or its owner shall discharge any obligation to the
13 facility to the extent of the payment.

14 Section 3-510. Receiver's avoidance of obligations;
15 reasonable rental, price, or rate of interest to be paid by
16 receiver.

17 (a) A receiver may petition the court that he or she not be
18 required to honor any lease, mortgage, secured transaction or
19 other wholly or partially executory contract entered into by
20 the owner of the facility if the rent, price or rate of
21 interest required to be paid under the agreement was
22 substantially in excess of a reasonable rent, price or rate of
23 interest at the time the contract was entered into, or if any
24 material provision of the agreement was unreasonable.

25 (b) If the receiver is in possession of real estate or

1 goods subject to a lease, mortgage or security interest which
2 the receiver has obtained a court order to avoid under
3 subsection (a) of this Section, and if the real estate or goods
4 are necessary for the continued operation of the facility under
5 this Section, the receiver may apply to the court to set a
6 reasonable rental, price or rate of interest to be paid by the
7 receiver during the duration of the receivership. The court
8 shall hold a hearing on the application within 15 days. The
9 receiver shall send notice of the application to any known
10 persons who own the property involved at least 10 days prior to
11 the hearing. Payment by the receiver of the amount determined
12 by the court to be reasonable is a defense to any action
13 against the receiver for payment or for possession of the goods
14 or real estate subject to the lease, security interest or
15 mortgage involved by any person who received such notice, but
16 the payment does not relieve the owner of the facility of any
17 liability for the difference between the amount paid by the
18 receiver and the amount due under the original lease, security
19 interest or mortgage involved.

20 Section 3-511. Insufficient funds collected; reimbursement
21 of receiver by Department. If funds collected under Sections
22 3-508 and 3-509 are insufficient to meet the expenses of
23 performing the powers and duties conferred on the receiver, or
24 if there are insufficient funds on hand to meet those expenses,
25 the Department may reimburse the receiver for those expenses

1 from funds appropriated for its ordinary and contingent
2 expenses by the General Assembly after funds contained in the
3 Long Term Care Monitor/Receiver Fund have been exhausted.

4 Section 3-512. Receiver's compensation. The court shall
5 set the compensation of the receiver, which will be considered
6 a necessary expense of a receivership under Section 3-516.

7 Section 3-513. Action against receiver.

8 (a) In any action or special proceeding brought against a
9 receiver in the receiver's official capacity for acts committed
10 while carrying out powers and duties under this Article, the
11 receiver shall be considered a public employee under the Local
12 Governmental and Governmental Employees Tort Immunity Act, as
13 now or hereafter amended.

14 (b) A receiver may be held liable in a personal capacity
15 only for the receiver's own gross negligence, intentional acts
16 or breach of fiduciary duty.

17 (c) The court may require a receiver to post a bond.

18 Section 3-514. License to facility in receivership. Other
19 provisions of this Act notwithstanding, the Department may
20 issue a license to a facility placed in receivership. The
21 duration of a license issued under this Section is limited to
22 the duration of the receivership.

1 Section 3-515. Termination of receivership. The court may
2 terminate a receivership:

3 (a) If the time period specified in the order appointing
4 the receiver elapses and is not extended;

5 (b) If the court determines that the receivership is no
6 longer necessary because the conditions which gave rise to the
7 receivership no longer exist; or the Department grants the
8 facility a new license, whether the structure of the facility,
9 the right to operate the facility, or the land on which it is
10 located is under the same or different ownership; or

11 (c) If all of the residents in the facility have been
12 transferred or discharged. Before terminating a receivership,
13 the court may order the Department to require any licensee to
14 comply with the recommendations of the receiver made under
15 subsection (k) of Section 3-508. A licensee may petition the
16 court to be relieved of this requirement.

17 Section 3-516. Accounting by receiver; Department's lien.

18 (a) Within 30 days after termination, the receiver shall
19 give the court a complete accounting of all property of which
20 the receiver has taken possession, of all funds collected, and
21 of the expenses of the receivership.

22 (b) If the operating funds collected by the receiver under
23 Sections 3-508 and 3-509 exceed the reasonable expenses of the
24 receivership, the court shall order payment of the surplus to
25 the owner, after reimbursement of funds drawn from the

1 contingency fund under Section 3-511. If the operating funds
2 are insufficient to cover the reasonable expenses of the
3 receivership, the owner shall be liable for the deficiency.
4 Payment recovered from the owner shall be used to reimburse the
5 contingency fund for amounts drawn by the receiver under
6 Section 3-511.

7 (c) The Department shall have a lien for any payment made
8 under Section 3-511 upon any beneficial interest, direct or
9 indirect, of any owner in the following property:

10 (1) The building in which the facility is located;

11 (2) Any fixtures, equipment or goods used in the
12 operation of the facility;

13 (3) The land on which the facility is located; or

14 (4) The proceeds from any conveyance of property
15 described in subparagraphs (1), (2) or (3) above, made by
16 the owner within one year prior to the filing of the
17 petition for receivership.

18 (d) The lien provided by this Section is prior to any lien
19 or other interest which originates subsequent to the filing of
20 a petition for receivership under this Article, except for a
21 construction or mechanic's lien arising out of work performed
22 with the express consent of the receiver.

23 (e) The receiver shall, within 60 days after termination of
24 the receivership, file a notice of any lien created under this
25 Section. If the lien is on real property, the notice shall be
26 filed with the recorder. If the lien is on personal property,

1 the lien shall be filed with the Secretary of State. The notice
2 shall specify the name of the person against whom the lien is
3 claimed, the name of the receiver, the dates of the petition
4 for receivership and the termination of receivership, a
5 description of the property involved and the amount claimed. No
6 lien shall exist under this Article against any person, on any
7 property, or for any amount not specified in the notice filed
8 under this subsection (e).

9 Section 3-517. Civil and criminal liability during
10 receivership. Nothing in this Act shall be deemed to relieve
11 any owner, administrator or employee of a facility placed in
12 receivership of any civil or criminal liability incurred, or
13 any duty imposed by law, by reason of acts or omissions of the
14 owner, administrator, or employee prior to the appointment of a
15 receiver; nor shall anything contained in this Act be construed
16 to suspend during the receivership any obligation of the owner,
17 administrator, or employee for payment of taxes or other
18 operating and maintenance expenses of the facility nor of the
19 owner, administrator, employee or any other person for the
20 payment of mortgages or liens. The owner shall retain the right
21 to sell or mortgage any facility under receivership, subject to
22 approval of the court which ordered the receivership.

23

PART 6. DUTIES

1 Section 3-601. Liability for injury to resident. The owner
2 and licensee are liable to a resident for any intentional or
3 negligent act or omission of their agents or employees which
4 injures the resident.

5 Section 3-602. Damages for violation of resident's rights.
6 The licensee shall pay the actual damages and costs and
7 attorney's fees to a facility resident whose rights, as
8 specified in Part 1 of Article II of this Act, are violated.

9 Section 3-603. Action by resident. A resident may maintain
10 an action under this Act for any other type of relief,
11 including injunctive and declaratory relief, permitted by law.

12 Section 3-604. Class action; remedies cumulative. Any
13 damages recoverable under Sections 3-601 through 3-607,
14 including minimum damages as provided by these Sections, may be
15 recovered in any action which a court may authorize to be
16 brought as a class action pursuant to the Civil Practice Law.
17 The remedies provided in Sections 3-601 through 3-607, are in
18 addition to and cumulative with any other legal remedies
19 available to a resident. Exhaustion of any available
20 administrative remedies shall not be required prior to
21 commencement of suit hereunder.

22 Section 3-605. Amount of damages; no effect on medical

1 assistance eligibility. The amount of damages recovered by a
2 resident in an action brought under Sections 3-601 through
3 3-607 shall be exempt for purposes of determining initial or
4 continuing eligibility for medical assistance under the
5 Illinois Public Aid Code, as now or hereafter amended, and
6 shall neither be taken into consideration nor required to be
7 applied toward the payment or partial payment of the cost of
8 medical care or services available under the Illinois Public
9 Aid Code.

10 Section 3-606. Waiver of resident's right to bring action
11 prohibited. Any waiver by a resident or his or her legal
12 representative of the right to commence an action under
13 Sections 3-601 through 3-607, whether oral or in writing, shall
14 be null and void, and without legal force or effect.

15 Section 3-607. Trial by jury. Any party to an action
16 brought under Sections 3-601 through 3-607 shall be entitled to
17 a trial by jury and any waiver of the right to a trial by a
18 jury, whether oral or in writing, prior to the commencement of
19 an action, shall be null and void, and without legal force or
20 effect.

21 Section 3-608. Retaliation against resident prohibited. A
22 licensee or its agents or employees shall not transfer,
23 discharge, evict, harass, dismiss, or retaliate against a

1 resident, a resident's representative, or an employee or agent
2 who makes a report under Section 2-107, brings or testifies in
3 an action under Sections 3-601 through 3-607, or files a
4 complaint under Section 3-702, because of the report,
5 testimony, or complaint.

6 Section 3-609. Immunity from liability for making report.
7 Any person, institution or agency, under this Act,
8 participating in good faith in the making of a report, or in
9 the investigation of such a report shall not be deemed to have
10 violated any privileged communication and shall have immunity
11 from any liability, civil, criminal or any other proceedings,
12 civil or criminal as a consequence of making such report. The
13 good faith of any persons required to report, or permitted to
14 report, cases of suspected resident abuse or neglect under this
15 Act, shall be presumed.

16 Section 3-610. Duty to report violations.

17 (a) A facility employee or agent who becomes aware of abuse
18 or neglect of a resident prohibited by Section 2-107 shall
19 immediately report the matter to the Department and to the
20 facility administrator. A facility administrator who becomes
21 aware of abuse or neglect of a resident prohibited by Section
22 2-107 shall immediately report the matter by telephone and in
23 writing to the resident's representative, and to the
24 Department. Any person may report a violation of Section 2-107

1 to the Department.

2 (b) A facility employee or agent who becomes aware of
3 another facility employee or agent's theft or misappropriation
4 of a resident's property must immediately report the matter to
5 the facility administrator. A facility administrator who
6 becomes aware of a facility employee or agent's theft or
7 misappropriation of a resident's property must immediately
8 report the matter by telephone and in writing to the resident's
9 representative, to the Department, and to the local law
10 enforcement agency. Neither a licensee nor its employees or
11 agents may dismiss or otherwise retaliate against a facility
12 employee or agent who reports the theft or misappropriation of
13 a resident's property under this subsection.

14 Section 3-611. Employee as perpetrator of abuse. When an
15 investigation of a report of suspected abuse of a recipient
16 indicates, based upon credible evidence, that an employee of a
17 facility is the perpetrator of the abuse, that employee shall
18 immediately be barred from any further contact with residents
19 of the facility, pending the outcome of any further
20 investigation, prosecution or disciplinary action against the
21 employee.

22 Section 3-612. Resident as perpetrator of abuse. When an
23 investigation of a report of suspected abuse of a resident
24 indicates, based upon credible evidence, that another resident

1 of the facility is the perpetrator of the abuse, that
2 resident's condition shall be immediately evaluated to
3 determine the most suitable therapy and placement for the
4 resident, considering the safety of that resident as well as
5 the safety of other residents and employees of the facility.

6 PART 7. COMPLAINT, HEARING, AND APPEAL

7 Section 3-701. Public nuisance; action for injunction. The
8 operation or maintenance of a facility in violation of this
9 Act, or of the rules and regulations promulgated by the
10 Department, is declared a public nuisance inimical to the
11 public welfare. The Director in the name of the people of the
12 State, through the Attorney General, or the State's Attorney of
13 the county in which the facility is located, or in respect to
14 any city, village or incorporated town which provides for the
15 licensing and regulation of any or all such facilities, the
16 Director or the mayor or president of the Board of Trustees, as
17 the case may require, of the city, village or incorporated
18 town, in the name of the people of the State, through the
19 Attorney General or State's attorney of the county in which the
20 facility is located, may, in addition to other remedies herein
21 provided, bring action for an injunction to restrain such
22 violation or to enjoin the future operation or maintenance of
23 any such facility.

1 Section 3-702. Request for investigation of violation.

2 (a) A person who believes that this Act or a rule
3 promulgated under this Act may have been violated may request
4 an investigation. The request may be submitted to the
5 Department in writing, by telephone, by electronic means, or by
6 personal visit. An oral complaint shall be reduced to writing
7 by the Department. The Department shall make available, through
8 its website and upon request, information regarding the oral
9 and phone intake processes and the list of questions that will
10 be asked of the complainant. The Department shall request
11 information identifying the complainant, including the name,
12 address and telephone number, to help enable appropriate follow
13 up. The Department shall act on such complaints via on-site
14 visits or other methods deemed appropriate to handle the
15 complaints with or without such identifying information, as
16 otherwise provided under this Section. The complainant shall be
17 informed that compliance with such request is not required to
18 satisfy the procedures for filing a complaint under this Act.
19 The Department must notify complainants that complaints with
20 less information provided are far more difficult to respond to
21 and investigate.

22 (b) The substance of the complaint shall be provided in
23 writing to the licensee, owner or administrator no earlier than
24 at the commencement of an on-site inspection of the facility
25 which takes place pursuant to the complaint.

26 (c) The Department shall not disclose the name of the

1 complainant unless the complainant consents in writing to the
2 disclosure or the investigation results in a judicial
3 proceeding, or unless disclosure is essential to the
4 investigation. The complainant shall be given the opportunity
5 to withdraw the complaint before disclosure. Upon the request
6 of the complainant, the Department may permit the complainant
7 or a representative of the complainant to accompany the person
8 making the on-site inspection of the facility.

9 (d) Upon receipt of a complaint, the Department shall
10 determine whether this Act or a rule promulgated under this Act
11 has been or is being violated. The Department shall investigate
12 all complaints alleging abuse or neglect within 7 days after
13 the receipt of the complaint except that complaints of abuse or
14 neglect which indicate that a resident's life or safety is in
15 imminent danger shall be investigated within 24 hours after
16 receipt of the complaint. All other complaints shall be
17 investigated within 30 days after the receipt of the complaint.
18 The Department employees investigating a complaint shall
19 conduct a brief, informal exit conference with the facility to
20 alert its administration of any suspected serious deficiency
21 that poses a direct threat to the health, safety or welfare of
22 a resident to enable an immediate correction for the
23 alleviation or elimination of such threat. Such information and
24 findings discussed in the brief exit conference shall become a
25 part of the investigating record but shall not in any way
26 constitute an official or final notice of violation as provided

1 under Section 3-301. All complaints shall be classified as "an
2 invalid report", "a valid report", or "an undetermined report".
3 For any complaint classified as "a valid report", the
4 Department must determine within 30 working days if any rule or
5 provision of this Act has been or is being violated.

6 (d-1) The Department shall, whenever possible, combine an
7 on site investigation of a complaint in a facility with other
8 inspections in order to avoid duplication of inspections.

9 (e) In all cases, the Department shall inform the
10 complainant of its findings within 10 days of its determination
11 unless otherwise indicated by the complainant, and the
12 complainant may direct the Department to send a copy of such
13 findings to another person. The Department's findings may
14 include comments or documentation provided by either the
15 complainant or the licensee pertaining to the complaint. The
16 Department shall also notify the facility of such findings
17 within 10 days of the determination, but the name of the
18 complainant or residents shall not be disclosed in this notice
19 to the facility. The notice of such findings shall include a
20 copy of the written determination; the correction order, if
21 any; the warning notice, if any; the inspection report; or the
22 State licensure form on which the violation is listed.

23 (f) A written determination, correction order, or warning
24 notice concerning a complaint, together with the facility's
25 response, shall be available for public inspection, but the
26 name of the complainant or resident shall not be disclosed

1 without his or her consent.

2 (g) A complainant who is dissatisfied with the
3 determination or investigation by the Department may request a
4 hearing under Section 3-703. The facility shall be given notice
5 of any such hearing and may participate in the hearing as a
6 party. If a facility requests a hearing under Section 3-703
7 which concerns a matter covered by a complaint, the complainant
8 shall be given notice and may participate in the hearing as a
9 party. A request for a hearing by either a complainant or a
10 facility shall be submitted in writing to the Department within
11 30 days after the mailing of the Department's findings as
12 described in subsection (e) of this Section. Upon receipt of
13 the request the Department shall conduct a hearing as provided
14 under Section 3-703.

15 (g-5) The Department shall conduct an annual review and
16 make a report concerning the complaint process that includes
17 the number of complaints received, the breakdown of anonymous
18 and non-anonymous complaints and whether the complaints were
19 substantiated or not, the total number of substantiated
20 complaints, and any other complaint information requested by
21 the DD Facility Advisory Board. This report shall be provided
22 to the DD Facility Advisory Board. The DD Facility Advisory
23 Board shall review the report and suggest any changes deemed
24 necessary to the Department for review and action, including
25 how to investigate and substantiate anonymous complaints.

26 (h) Any person who knowingly transmits a false report to

1 the Department commits the offense of disorderly conduct under
2 subsection (a) (8) of Section 26-1 of the Criminal Code of 2012.

3 Section 3-703. Hearing to contest decision; applicable
4 provisions. Any person requesting a hearing pursuant to
5 Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303,
6 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in
7 a particular case may have such decision reviewed in accordance
8 with Sections 3-703 through 3-712.

9 Section 3-704. Hearing; notice; commencement. A request
10 for a hearing by aggrieved persons shall be taken to the
11 Department as follows:

12 (a) Upon the receipt of a request in writing for a hearing,
13 the Director or a person designated in writing by the Director
14 to act as a hearing officer shall conduct a hearing to review
15 the decision.

16 (b) Before the hearing is held, notice of the hearing shall
17 be sent by the Department to the person making the request for
18 the hearing and to the person making the decision which is
19 being reviewed. In the notice the Department shall specify the
20 date, time and place of the hearing which shall be held not
21 less than 10 days after the notice is mailed or delivered. The
22 notice shall designate the decision being reviewed. The notice
23 may be served by delivering it personally to the parties or
24 their representatives or by mailing it by certified mail to the

1 parties' addresses.

2 (c) The Department shall commence the hearing within 30
3 days of the receipt of request for hearing. The hearing shall
4 proceed as expeditiously as practicable, but in all cases shall
5 conclude within 90 days of commencement.

6 Section 3-705. Subpoenas. The Director or hearing officer
7 may compel by subpoena or subpoena duces tecum the attendance
8 and testimony of witnesses and the production of books and
9 papers, and administer oaths to witnesses.

10 Section 3-706. Appearance at hearing; depositions; record.
11 The Director or hearing officer shall permit any party to
12 appear in person and to be represented by counsel at the
13 hearing, at which time the applicant or licensee shall be
14 afforded an opportunity to present all relevant matter in
15 support of his position. In the event of the inability of any
16 party or the Department to procure the attendance of witnesses
17 to give testimony or produce books and papers, any party or the
18 Department may take the deposition of witnesses in accordance
19 with the provisions of the laws of this State. All testimony
20 taken at a hearing shall be reduced to writing, and all such
21 testimony and other evidence introduced at the hearing shall be
22 a part of the record of the hearing.

23 Section 3-707. Findings of fact; decision. The Director or

1 hearing officer shall make findings of fact in such hearing,
2 and the Director shall render his or her decision within 30
3 days after the termination of the hearing, unless additional
4 time not to exceed 90 days is required by him or her for a
5 proper disposition of the matter. When the hearing has been
6 conducted by a hearing officer, the Director shall review the
7 record and findings of fact before rendering a decision. All
8 decisions rendered by the Director shall be binding upon and
9 complied with by the Department, the facility or the persons
10 involved in the hearing, as appropriate to each case.

11 Section 3-708. Rules of evidence and procedure. The
12 Director or hearing officer shall not be bound by common law or
13 statutory rules of evidence, or by technical or formal rules of
14 procedure, but shall conduct hearings in the manner best
15 calculated to result in substantial justice.

16 Section 3-709. Service of subpoenas; witness fees. All
17 subpoenas issued by the Director or hearing officer may be
18 served as provided for in civil actions. The fees of witnesses
19 for attendance and travel shall be the same as the fees for
20 witnesses before the circuit court and shall be paid by the
21 party to such proceeding at whose request the subpoena is
22 issued. If such subpoena is issued at the request of the
23 Department or by a person proceeding in forma pauperis the
24 witness fee shall be paid by the Department as an

1 administrative expense.

2 Section 3-710. Compelling obedience to subpoena. In cases
3 of refusal of a witness to attend or testify or to produce
4 books or papers, concerning any matter upon which he might be
5 lawfully examined, the circuit court of the county wherein the
6 hearing is held, upon application of any party to the
7 proceeding, may compel obedience by a proceeding for contempt
8 as in cases of a like refusal to obey a similar order of the
9 court.

10 Section 3-711. Record of hearing; transcript. The
11 Department, at its expense, shall provide a stenographer to
12 take the testimony, or otherwise record the testimony, and
13 preserve a record of all proceedings under this Section. The
14 notice of hearing, the complaint and all other documents in the
15 nature of pleadings and written motions filed in the
16 proceedings, the transcript of testimony, and the findings and
17 decision shall be the record of the proceedings. The Department
18 shall furnish a transcript of such record to any person
19 interested in such hearing upon payment therefor of 70 cents
20 per page for each original transcript and 25 cents per page for
21 each certified copy thereof. However, the charge for any part
22 of such transcript ordered and paid for previous to the writing
23 of the original record shall be 25 cents per page.

1 Section 3-712. Certification of record; fee. The
2 Department shall not be required to certify any record or file
3 any answer or otherwise appear in any proceeding for judicial
4 review under Section 3-713 of this Act unless there is filed
5 with the complaint a receipt from the Department acknowledging
6 payment of the costs of furnishing and certifying the record,
7 which cost shall be computed at the rate of 95 cents per page
8 of such record. Failure on the part of the plaintiff to file
9 such receipt in Court shall be grounds for dismissal of the
10 action; provided, however, that persons proceeding in forma
11 pauperis with the approval of the circuit court shall not be
12 required to pay these fees.

13 Section 3-713. Judicial review; stay of enforcement of
14 Department's decision.

15 (a) Final administrative decisions after hearing shall be
16 subject to judicial review exclusively as provided in the
17 Administrative Review Law, as now or hereafter amended, except
18 that any petition for judicial review of Department action
19 under this Act shall be filed within 15 days after receipt of
20 notice of the final agency determination. The term
21 "administrative decision" has the meaning ascribed to it in
22 Section 3-101 of the Code of Civil Procedure.

23 (b) The court may stay enforcement of the Department's
24 final decision or toll the continuing accrual of a penalty
25 under Section 3-305 if a showing is made that there is a

1 substantial probability that the party seeking review will
2 prevail on the merits and will suffer irreparable harm if a
3 stay is not granted, and that the facility will meet the
4 requirements of this Act and the rules promulgated under this
5 Act during such stay. Where a stay is granted the court may
6 impose such conditions on the granting of the stay as may be
7 necessary to safeguard the lives, health, rights, safety and
8 welfare of residents, and to assure compliance by the facility
9 with the requirements of this Act, including an order for
10 transfer or discharge of residents under Sections 3-401 through
11 3-423 or for appointment of a receiver under Sections 3-501
12 through 3-517.

13 (c) Actions brought under this Act shall be set for trial
14 at the earliest possible date and shall take precedence on the
15 court calendar over all other cases except matters to which
16 equal or superior precedence is specifically granted by law.

17 Section 3-714. Remedies cumulative. The remedies provided
18 by this Act are cumulative and shall not be construed as
19 restricting any party from seeking any remedy, provisional or
20 otherwise, provided by law for the benefit of the party, from
21 obtaining additional relief based upon the same facts.

22 PART 8. MISCELLANEOUS PROVISIONS

23 Section 3-801. Rules and regulations. The Department shall

1 have the power to adopt rules and regulations to carry out the
2 purpose of this Act.

3 Section 3-801.1. Access to records of resident with
4 developmental disabilities. Notwithstanding the other
5 provisions of this Act to the contrary, the agency designated
6 by the Governor under Section 1 of "An Act in relation to the
7 protection and advocacy of the rights of persons with
8 developmental disabilities, and amending Acts therein named",
9 enacted by the 84th General Assembly, shall have access to the
10 records of a person with developmental disabilities who resides
11 in a facility, subject to the limitations of this Act. The
12 agency shall also have access for the purpose of inspection and
13 copying, to the records of a person with developmental
14 disabilities who resides in any such facility if (1) a
15 complaint is received by such agency from or on behalf of the
16 person with a developmental disability, and (2) such person
17 does not have a guardian or the State or the designee of the
18 State is the guardian of such person. The designated agency
19 shall provide written notice to the person with developmental
20 disabilities and the State guardian of the nature of the
21 complaint based upon which the designated agency has gained
22 access to the records. No record or the contents of any record
23 shall be redisclosed by the designated agency unless the person
24 with developmental disabilities and the State guardian are
25 provided 7 days' advance written notice, except in emergency

1 situations, of the designated agency's intent to redisclose
2 such record, during which time the person with developmental
3 disabilities or the State guardian may seek to judicially
4 enjoin the designated agency's redisclosure of such record on
5 the grounds that such redisclosure is contrary to the interests
6 of the person with developmental disabilities. If a person with
7 developmental disabilities resides in such a facility and has a
8 guardian other than the State or the designee of the State, the
9 facility director shall disclose the guardian's name, address,
10 and telephone number to the designated agency at the agency's
11 request.

12 Upon request, the designated agency shall be entitled to
13 inspect and copy any records or other materials which may
14 further the agency's investigation of problems affecting
15 numbers of persons with developmental disabilities. When
16 required by law any personally identifiable information of
17 persons with a developmental disability shall be removed from
18 the records. However, the designated agency may not inspect or
19 copy any records or other materials when the removal of
20 personally identifiable information imposes an unreasonable
21 burden on the facility. For the purposes of this Section,
22 "developmental disability" means a severe, chronic disability
23 of a person which:

24 (A) is attributable to a mental or physical impairment
25 or combination of mental and physical impairments;

26 (B) is manifested before the person attains age 22;

1 (C) is likely to continue indefinitely;

2 (D) results in substantial functional limitations in 3
3 or more of the following areas of major life activity: (i)
4 self care, (ii) receptive and expressive language, (iii)
5 learning, (iv) mobility, (v) self direction, (vi) capacity
6 for independent living, and (vii) economic self
7 sufficiency; and

8 (E) reflects the person's need for combination and
9 sequence of special, interdisciplinary or generic care,
10 treatment or other services which are of lifelong or
11 extended duration and are individually planned and
12 coordinated.

13 Section 3-801.05. Rules adopted under prior law. The
14 Department shall adopt rules to implement the changes
15 concerning licensure of facilities under this Act instead of
16 under the ID/DD Community Care Act. Until the Department adopts
17 those rules, the rules adopted under the ID/DD Community Care
18 Act that apply to long-term care for under age 22 facilities
19 subject to licensure under the ID/DD Community Care Act shall
20 apply to medically complex for the developmentally disabled
21 facilities under this Act.

22 Section 3-802. Illinois Administrative Procedure Act. The
23 provisions of the Illinois Administrative Procedure Act are
24 hereby expressly adopted and shall apply to all administrative

1 rules and procedures of the Department under this Act.

2 Section 3-803. Treatment by prayer or spiritual means.
3 Nothing in this Act or the rules and regulations adopted
4 pursuant thereto shall be construed as authorizing the medical
5 supervision, regulation, or control of the remedial care or
6 treatment of residents in any facility conducted for those who
7 rely upon treatment by prayer or spiritual means in accordance
8 with the creed or tenets of any well recognized church or
9 religious denomination.

10 Section 3-804. Report to General Assembly. The Department
11 shall report to the General Assembly by April 1 of each year
12 upon the performance of its inspection, survey and evaluation
13 duties under this Act, including the number and needs of the
14 Department personnel engaged in such activities. The report
15 shall also describe the Department's actions in enforcement of
16 this Act, including the number and needs of personnel so
17 engaged. The report shall also include the number of valid and
18 invalid complaints filed with the Department within the last
19 calendar year.

20 Section 3-808. Protocol for sexual assault victims; MC/DD
21 facility. The Department shall develop a protocol for the care
22 and treatment of residents who have been sexually assaulted in
23 a MC/DD facility or elsewhere.

1 Section 3-808.5. Facility fraud, abuse, or neglect
2 prevention and reporting.

3 (a) A facility licensed to provide care to 17 or more
4 residents that receives Medicaid funding shall prominently
5 display in its lobby, in its dining areas, and on each floor of
6 the facility information approved by the Illinois Medicaid
7 Fraud Control Unit on how to report fraud, abuse, and neglect.
8 A facility licensed to provide care to fewer than 17 residents
9 that receives Medicaid funding shall prominently display in the
10 facility so as to be easily seen by all residents, visitors,
11 and employees information approved by the Illinois Medicaid
12 Fraud Control Unit on how to report fraud, abuse, and neglect.
13 In addition, information regarding the reporting of fraud,
14 abuse, and neglect shall be provided to each resident at the
15 time of admission and to the resident's guardian or resident's
16 representative.

17 (b) Any owner or licensee of a facility licensed under this
18 Act shall be responsible for the collection and maintenance of
19 any and all records required to be maintained under this
20 Section and any other applicable provisions of this Act and as
21 a provider under the Illinois Public Aid Code, and shall be
22 responsible for compliance with all of the disclosure
23 requirements under this Section. All books and records and
24 other papers and documents that are required to be kept, and
25 all records showing compliance with all of the disclosure

1 requirements to be made pursuant to this Section, shall be kept
2 by the licensee and available at the facility and shall, at all
3 times during business hours, be subject to inspection by any
4 law enforcement or health oversight agency or its duly
5 authorized agents or employees.

6 (c) Any report of abuse and neglect of residents made by
7 any individual in whatever manner, including, but not limited
8 to, reports made under Sections 2-107 and 3-610 of this Act, or
9 as provided under the Abused and Neglected Long Term Care
10 Facility Residents Reporting Act, that is made to an
11 administrator, a director of nursing, or any other person with
12 management responsibility at a facility must be disclosed to
13 the owners and licensee of the facility within 24 hours of the
14 report. The owners and licensee of a facility shall maintain
15 all records necessary to show compliance with this disclosure
16 requirement.

17 (d) Any person with an ownership interest in a facility
18 licensed by the Department must, within 30 days after the
19 effective date of this Act, disclose the existence of any
20 ownership interest in any vendor who does business with the
21 facility. The disclosures required by this subsection (d) shall
22 be made in the form and manner prescribed by the Department.
23 Licensed facilities that receive Medicaid funding shall submit
24 a copy of the disclosures required by this subsection (d) to
25 the Illinois Medicaid Fraud Control Unit. The owners and
26 licensee of a facility shall maintain all records necessary to

1 show compliance with this disclosure requirement.

2 (e) Notwithstanding the provisions of Section 3-318 of this
3 Act and in addition thereto, any person, owner, or licensee who
4 willfully fails to keep and maintain, or willfully fails to
5 produce for inspection, books and records, or willfully fails
6 to make the disclosures required by this Section, is guilty of
7 a Class A misdemeanor. A second or subsequent violation of this
8 Section shall be punishable as a Class 4 felony.

9 (f) Any owner or licensee who willfully files or willfully
10 causes to be filed a document with false information with the
11 Department, the Department of Healthcare and Family Services,
12 or the Illinois Medicaid Fraud Control Unit or any other law
13 enforcement agency is guilty of a Class A misdemeanor.

14 Section 3-810. Whistleblower protection.

15 (a) In this Section, "retaliatory action" means the
16 reprimand, discharge, suspension, demotion, denial of
17 promotion or transfer, or change in the terms and conditions of
18 employment of any employee of a facility that is taken in
19 retaliation for the employee's involvement in a protected
20 activity as set forth in paragraphs (1), (2), and (3) of
21 subsection (b) of this Section.

22 (b) A facility shall not take any retaliatory action
23 against an employee of the facility, including a nursing home
24 administrator, because the employee does any of the following:

25 (1) Discloses or threatens to disclose to a supervisor

1 or to a public body an activity, inaction, policy, or
2 practice implemented by a facility that the employee
3 reasonably believes is in violation of a law, rule, or
4 regulation.

5 (2) Provides information to or testifies before any
6 public body conducting an investigation, hearing, or
7 inquiry into any violation of a law, rule, or regulation by
8 a nursing home administrator.

9 (3) Assists or participates in a proceeding to enforce
10 the provisions of this Act.

11 (c) A violation of this Section may be established only
12 upon a finding that (1) the employee of the facility engaged in
13 conduct described in subsection (b) of this Section and (2)
14 this conduct was a contributing factor in the retaliatory
15 action alleged by the employee. There is no violation of this
16 Section, however, if the facility demonstrates by clear and
17 convincing evidence that it would have taken the same
18 unfavorable personnel action in the absence of that conduct.

19 (d) The employee of the facility may be awarded all
20 remedies necessary to make the employee whole and to prevent
21 future violations of this Section. Remedies imposed by the
22 court may include, but are not limited to, all of the
23 following:

24 (1) Reinstatement of the employee to either the same
25 position held before the retaliatory action or to an
26 equivalent position.

- 1 (2) Two times the amount of back pay.
- 2 (3) Interest on the back pay.
- 3 (4) Reinstatement of full fringe benefits and
4 seniority rights.
- 5 (5) Payment of reasonable costs and attorney's fees.
- 6 (e) Nothing in this Section shall be deemed to diminish the
7 rights, privileges, or remedies of an employee of a facility
8 under any other federal or State law, rule, or regulation or
9 under any employment contract.

10 Section 5. The Election Code is amended by changing
11 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,
12 19-12.1, and 19-12.2 as follows:

13 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

14 Sec. 3-3. Every honorably discharged soldier or sailor who
15 is an inmate of any soldiers' and sailors' home within the
16 State of Illinois, any person who is a resident of a facility
17 licensed or certified pursuant to the Nursing Home Care Act,
18 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
19 the ID/DD Community Care Act, or the MC/DD Act, or any person
20 who is a resident of a community-integrated living arrangement,
21 as defined in Section 3 of the Community-Integrated Living
22 Arrangements Licensure and Certification Act, for 30 days or
23 longer, and who is a citizen of the United States and has
24 resided in this State and in the election district 30 days next

1 preceding any election shall be entitled to vote in the
2 election district in which any such home or
3 community-integrated living arrangement in which he is an
4 inmate or resident is located, for all officers that now are or
5 hereafter may be elected by the people, and upon all questions
6 that may be submitted to the vote of the people: Provided, that
7 he shall declare upon oath, that it was his bona fide intention
8 at the time he entered said home or community-integrated living
9 arrangement to become a resident thereof.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 98-104, eff. 7-22-13.)

12 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

13 (Text of Section before amendment by P.A. 98-1171)

14 Sec. 4-6.3. The county clerk may establish a temporary
15 place of registration for such times and at such locations
16 within the county as the county clerk may select. However, no
17 temporary place of registration may be in operation during the
18 27 days preceding an election. Notice of the time and place of
19 registration under this Section shall be published by the
20 county clerk in a newspaper having a general circulation in the
21 county not less than 3 nor more than 15 days before the holding
22 of such registration.

23 Temporary places of registration shall be established so
24 that the areas of concentration of population or use by the
25 public are served, whether by facilities provided in places of

1 private business or in public buildings or in mobile units.
2 Areas which may be designated as temporary places of
3 registration include, but are not limited to, facilities
4 licensed or certified pursuant to the Nursing Home Care Act,
5 the Specialized Mental Health Rehabilitation Act of 2013, or
6 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,
7 shopping centers, business districts, public buildings and
8 county fairs.

9 Temporary places of registration shall be available to the
10 public not less than 2 hours per year for each 1,000 population
11 or fraction thereof in the county.

12 All temporary places of registration shall be manned by
13 deputy county clerks or deputy registrars appointed pursuant to
14 Section 4-6.2.

15 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
16 eff. 7-13-12; 98-104, eff. 7-22-13.)

17 (Text of Section after amendment by P.A. 98-1171)

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10 buildings and county fairs.

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16 Section 4-6.2.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

19 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

20 (Text of Section before amendment by P.A. 98-1171)

21 Sec. 4-10. Except as herein provided, no person shall be
22 registered, unless he applies in person to a registration
23 officer, answers such relevant questions as may be asked of him
24 by the registration officer, and executes the affidavit of
25 registration. The registration officer shall require the

1 applicant to furnish two forms of identification, and except in
2 the case of a homeless individual, one of which must include
3 his or her residence address. These forms of identification
4 shall include, but not be limited to, any of the following:
5 driver's license, social security card, public aid
6 identification card, utility bill, employee or student
7 identification card, lease or contract for a residence, credit
8 card, or a civic, union or professional association membership
9 card. The registration officer shall require a homeless
10 individual to furnish evidence of his or her use of the mailing
11 address stated. This use may be demonstrated by a piece of mail
12 addressed to that individual and received at that address or by
13 a statement from a person authorizing use of the mailing
14 address. The registration officer shall require each applicant
15 for registration to read or have read to him the affidavit of
16 registration before permitting him to execute the affidavit.

17 One of the registration officers or a deputy registration
18 officer, county clerk, or clerk in the office of the county
19 clerk, shall administer to all persons who shall personally
20 apply to register the following oath or affirmation:

21 "You do solemnly swear (or affirm) that you will fully and
22 truly answer all such questions as shall be put to you touching
23 your name, place of residence, place of birth, your
24 qualifications as an elector and your right as such to register
25 and vote under the laws of the State of Illinois."

26 The registration officer shall satisfy himself that each

1 applicant for registration is qualified to register before
2 registering him. If the registration officer has reason to
3 believe that the applicant is a resident of a Soldiers' and
4 Sailors' Home or any facility which is licensed or certified
5 pursuant to the Nursing Home Care Act, the Specialized Mental
6 Health Rehabilitation Act of 2013, or the ID/DD Community Care
7 Act, the following question shall be put, "When you entered the
8 home which is your present address, was it your bona fide
9 intention to become a resident thereof?" Any voter of a
10 township, city, village or incorporated town in which such
11 applicant resides, shall be permitted to be present at the
12 place of any precinct registration and shall have the right to
13 challenge any applicant who applies to be registered.

14 In case the officer is not satisfied that the applicant is
15 qualified he shall forthwith notify such applicant in writing
16 to appear before the county clerk to complete his registration.
17 Upon the card of such applicant shall be written the word
18 "incomplete" and no such applicant shall be permitted to vote
19 unless such registration is satisfactorily completed as
20 hereinafter provided. No registration shall be taken and marked
21 as incomplete if information to complete it can be furnished on
22 the date of the original application.

23 Any person claiming to be an elector in any election
24 precinct and whose registration card is marked "Incomplete" may
25 make and sign an application in writing, under oath, to the
26 county clerk in substance in the following form:

1 "I do solemnly swear that I,, did on (insert date)
 2 make application to the board of registry of the precinct
 3 of the township of (or to the county clerk of county)
 4 and that said board or clerk refused to complete my
 5 registration as a qualified voter in said precinct. That I
 6 reside in said precinct, that I intend to reside in said
 7 precinct, and am a duly qualified voter of said precinct and am
 8 entitled to be registered to vote in said precinct at the next
 9 election.

10 (Signature of applicant)"

11 All such applications shall be presented to the county
 12 clerk or to his duly authorized representative by the
 13 applicant, in person between the hours of 9:00 a.m. and 5:00
 14 p.m. on any day after the days on which the 1969 and 1970
 15 precinct re-registrations are held but not on any day within 27
 16 days preceding the ensuing general election and thereafter for
 17 the registration provided in Section 4-7 all such applications
 18 shall be presented to the county clerk or his duly authorized
 19 representative by the applicant in person between the hours of
 20 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
 21 the ensuing general election. Such application shall be heard
 22 by the county clerk or his duly authorized representative at
 23 the time the application is presented. If the applicant for
 24 registration has registered with the county clerk, such
 25 application may be presented to and heard by the county clerk

1 or by his duly authorized representative upon the dates
2 specified above or at any time prior thereto designated by the
3 county clerk.

4 Any otherwise qualified person who is absent from his
5 county of residence either due to business of the United States
6 or because he is temporarily outside the territorial limits of
7 the United States may become registered by mailing an
8 application to the county clerk within the periods of
9 registration provided for in this Article, or by simultaneous
10 application for absentee registration and absentee ballot as
11 provided in Article 20 of this Code.

12 Upon receipt of such application the county clerk shall
13 immediately mail an affidavit of registration in duplicate,
14 which affidavit shall contain the following and such other
15 information as the State Board of Elections may think it proper
16 to require for the identification of the applicant:

17 Name. The name of the applicant, giving surname and first
18 or Christian name in full, and the middle name or the initial
19 for such middle name, if any.

20 Sex.

21 Residence. The name and number of the street, avenue or
22 other location of the dwelling, and such additional clear and
23 definite description as may be necessary to determine the exact
24 location of the dwelling of the applicant. Where the location
25 cannot be determined by street and number, then the Section,
26 congressional township and range number may be used, or such

1 other information as may be necessary, including post office
2 mailing address.

3 Electronic mail address, if the registrant has provided
4 this information.

5 Term of residence in the State of Illinois and the
6 precinct.

7 Nativity. The State or country in which the applicant was
8 born.

9 Citizenship. Whether the applicant is native born or
10 naturalized. If naturalized, the court, place and date of
11 naturalization.

12 Age. Date of birth, by month, day and year.

13 Out of State address of

14 AFFIDAVIT OF REGISTRATION

15 State of

16)ss

17 County of

18 I hereby swear (or affirm) that I am a citizen of the
19 United States; that on the day of the next election I shall
20 have resided in the State of Illinois and in the election
21 precinct 30 days; that I am fully qualified to vote, that I am
22 not registered to vote anywhere else in the United States, that
23 I intend to remain a resident of the State of Illinois and of
24 the election precinct, that I intend to return to the State of
25 Illinois, and that the above statements are true.

26

1 (His or her signature or mark)

2 Subscribed and sworn to before me, an officer qualified to
3 administer oaths, on (insert date).

4

5 Signature of officer administering oath.

6 Upon receipt of the executed duplicate affidavit of
7 Registration, the county clerk shall transfer the information
8 contained thereon to duplicate Registration Cards provided for
9 in Section 4-8 of this Article and shall attach thereto a copy
10 of each of the duplicate affidavit of registration and
11 thereafter such registration card and affidavit shall
12 constitute the registration of such person the same as if he
13 had applied for registration in person.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
15 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
16 98-756, eff. 7-16-14.)

17 (Text of Section after amendment by P.A. 98-1171)

18 Sec. 4-10. Except as herein provided, no person shall be
19 registered, unless he applies in person to a registration
20 officer, answers such relevant questions as may be asked of him
21 by the registration officer, and executes the affidavit of
22 registration. The registration officer shall require the
23 applicant to furnish two forms of identification, and except in
24 the case of a homeless individual, one of which must include
25 his or her residence address. These forms of identification

1 shall include, but not be limited to, any of the following:
2 driver's license, social security card, public aid
3 identification card, utility bill, employee or student
4 identification card, lease or contract for a residence, credit
5 card, or a civic, union or professional association membership
6 card. The registration officer shall require a homeless
7 individual to furnish evidence of his or her use of the mailing
8 address stated. This use may be demonstrated by a piece of mail
9 addressed to that individual and received at that address or by
10 a statement from a person authorizing use of the mailing
11 address. The registration officer shall require each applicant
12 for registration to read or have read to him the affidavit of
13 registration before permitting him to execute the affidavit.

14 One of the registration officers or a deputy registration
15 officer, county clerk, or clerk in the office of the county
16 clerk, shall administer to all persons who shall personally
17 apply to register the following oath or affirmation:

18 "You do solemnly swear (or affirm) that you will fully and
19 truly answer all such questions as shall be put to you touching
20 your name, place of residence, place of birth, your
21 qualifications as an elector and your right as such to register
22 and vote under the laws of the State of Illinois."

23 The registration officer shall satisfy himself that each
24 applicant for registration is qualified to register before
25 registering him. If the registration officer has reason to
26 believe that the applicant is a resident of a Soldiers' and

1 Sailors' Home or any facility which is licensed or certified
2 pursuant to the Nursing Home Care Act, the Specialized Mental
3 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
4 Act, or the MC/DD Act, the following question shall be put,
5 "When you entered the home which is your present address, was
6 it your bona fide intention to become a resident thereof?" Any
7 voter of a township, city, village or incorporated town in
8 which such applicant resides, shall be permitted to be present
9 at the place of any precinct registration and shall have the
10 right to challenge any applicant who applies to be registered.

11 In case the officer is not satisfied that the applicant is
12 qualified he shall forthwith notify such applicant in writing
13 to appear before the county clerk to complete his registration.
14 Upon the card of such applicant shall be written the word
15 "incomplete" and no such applicant shall be permitted to vote
16 unless such registration is satisfactorily completed as
17 hereinafter provided. No registration shall be taken and marked
18 as incomplete if information to complete it can be furnished on
19 the date of the original application.

20 Any person claiming to be an elector in any election
21 precinct and whose registration card is marked "Incomplete" may
22 make and sign an application in writing, under oath, to the
23 county clerk in substance in the following form:

24 "I do solemnly swear that I,, did on (insert date)
25 make application to the board of registry of the precinct
26 of the township of (or to the county clerk of county)

1 and that said board or clerk refused to complete my
 2 registration as a qualified voter in said precinct. That I
 3 reside in said precinct, that I intend to reside in said
 4 precinct, and am a duly qualified voter of said precinct and am
 5 entitled to be registered to vote in said precinct at the next
 6 election.

7 (Signature of applicant)"

8 All such applications shall be presented to the county
 9 clerk or to his duly authorized representative by the
 10 applicant, in person between the hours of 9:00 a.m. and 5:00
 11 p.m. on any day after the days on which the 1969 and 1970
 12 precinct re-registrations are held but not on any day within 27
 13 days preceding the ensuing general election and thereafter for
 14 the registration provided in Section 4-7 all such applications
 15 shall be presented to the county clerk or his duly authorized
 16 representative by the applicant in person between the hours of
 17 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
 18 the ensuing general election. Such application shall be heard
 19 by the county clerk or his duly authorized representative at
 20 the time the application is presented. If the applicant for
 21 registration has registered with the county clerk, such
 22 application may be presented to and heard by the county clerk
 23 or by his duly authorized representative upon the dates
 24 specified above or at any time prior thereto designated by the
 25 county clerk.

1 Any otherwise qualified person who is absent from his
2 county of residence either due to business of the United States
3 or because he is temporarily outside the territorial limits of
4 the United States may become registered by mailing an
5 application to the county clerk within the periods of
6 registration provided for in this Article, or by simultaneous
7 application for registration by mail and vote by mail ballot as
8 provided in Article 20 of this Code.

9 Upon receipt of such application the county clerk shall
10 immediately mail an affidavit of registration in duplicate,
11 which affidavit shall contain the following and such other
12 information as the State Board of Elections may think it proper
13 to require for the identification of the applicant:

14 Name. The name of the applicant, giving surname and first
15 or Christian name in full, and the middle name or the initial
16 for such middle name, if any.

17 Sex.

18 Residence. The name and number of the street, avenue or
19 other location of the dwelling, and such additional clear and
20 definite description as may be necessary to determine the exact
21 location of the dwelling of the applicant. Where the location
22 cannot be determined by street and number, then the Section,
23 congressional township and range number may be used, or such
24 other information as may be necessary, including post office
25 mailing address.

26 Electronic mail address, if the registrant has provided

1 this information.

2 Term of residence in the State of Illinois and the
3 precinct.

4 Nativity. The State or country in which the applicant was
5 born.

6 Citizenship. Whether the applicant is native born or
7 naturalized. If naturalized, the court, place and date of
8 naturalization.

9 Age. Date of birth, by month, day and year.

10 Out of State address of

11 AFFIDAVIT OF REGISTRATION

12 State of

13) ss

14 County of

15 I hereby swear (or affirm) that I am a citizen of the
16 United States; that on the day of the next election I shall
17 have resided in the State of Illinois and in the election
18 precinct 30 days; that I am fully qualified to vote, that I am
19 not registered to vote anywhere else in the United States, that
20 I intend to remain a resident of the State of Illinois and of
21 the election precinct, that I intend to return to the State of
22 Illinois, and that the above statements are true.

23

24 (His or her signature or mark)

25 Subscribed and sworn to before me, an officer qualified to
26 administer oaths, on (insert date).

1
2

Signature of officer administering oath.

3 Upon receipt of the executed duplicate affidavit of
4 Registration, the county clerk shall transfer the information
5 contained thereon to duplicate Registration Cards provided for
6 in Section 4-8 of this Article and shall attach thereto a copy
7 of each of the duplicate affidavit of registration and
8 thereafter such registration card and affidavit shall
9 constitute the registration of such person the same as if he
10 had applied for registration in person.

11 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
12 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
13 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

14 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

15 (Text of Section before amendment by P.A. 98-1171)

16 Sec. 5-9. Except as herein provided, no person shall be
17 registered unless he applies in person to registration officer,
18 answers such relevant questions as may be asked of him by the
19 registration officer, and executes the affidavit of
20 registration. The registration officer shall require the
21 applicant to furnish two forms of identification, and except in
22 the case of a homeless individual, one of which must include
23 his or her residence address. These forms of identification
24 shall include, but not be limited to, any of the following:
25 driver's license, social security card, public aid

1 identification card, utility bill, employee or student
2 identification card, lease or contract for a residence, credit
3 card, or a civic, union or professional association membership
4 card. The registration officer shall require a homeless
5 individual to furnish evidence of his or her use of the mailing
6 address stated. This use may be demonstrated by a piece of mail
7 addressed to that individual and received at that address or by
8 a statement from a person authorizing use of the mailing
9 address. The registration officer shall require each applicant
10 for registration to read or have read to him the affidavit of
11 registration before permitting him to execute the affidavit.

12 One of the Deputy Registrars, the Judge of Registration, or
13 an Officer of Registration, County Clerk, or clerk in the
14 office of the County Clerk, shall administer to all persons who
15 shall personally apply to register the following oath or
16 affirmation:

17 "You do solemnly swear (or affirm) that you will fully and
18 truly answer all such questions as shall be put to you touching
19 your place of residence, name, place of birth, your
20 qualifications as an elector and your right as such to register
21 and vote under the laws of the State of Illinois."

22 The Registration Officer shall satisfy himself that each
23 applicant for registration is qualified to register before
24 registering him. If the registration officer has reason to
25 believe that the applicant is a resident of a Soldiers' and
26 Sailors' Home or any facility which is licensed or certified

1 pursuant to the Nursing Home Care Act, the Specialized Mental
2 Health Rehabilitation Act of 2013, or the ID/DD Community Care
3 Act, the following question shall be put, "When you entered the
4 home which is your present address, was it your bona fide
5 intention to become a resident thereof?" Any voter of a
6 township, city, village or incorporated town in which such
7 applicant resides, shall be permitted to be present at the
8 place of precinct registration, and shall have the right to
9 challenge any applicant who applies to be registered.

10 In case the officer is not satisfied that the applicant is
11 qualified, he shall forthwith in writing notify such applicant
12 to appear before the County Clerk to furnish further proof of
13 his qualifications. Upon the card of such applicant shall be
14 written the word "Incomplete" and no such applicant shall be
15 permitted to vote unless such registration is satisfactorily
16 completed as hereinafter provided. No registration shall be
17 taken and marked as "incomplete" if information to complete it
18 can be furnished on the date of the original application.

19 Any person claiming to be an elector in any election
20 precinct in such township, city, village or incorporated town
21 and whose registration is marked "Incomplete" may make and sign
22 an application in writing, under oath, to the County Clerk in
23 substance in the following form:

24 "I do solemnly swear that I,, did on (insert
25 date) make application to the Board of Registry of the
26 precinct of ward of the City of or of the

1 District Town of (or to the
 2 County Clerk of) and County; that
 3 said Board or Clerk refused to complete my registration as a
 4 qualified voter in said precinct, that I reside in said
 5 precinct (or that I intend to reside in said precinct), am a
 6 duly qualified voter and entitled to vote in said precinct at
 7 the next election.

8
 9 (Signature of Applicant)"

10 All such applications shall be presented to the County
 11 Clerk by the applicant, in person between the hours of nine
 12 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
 13 the third week subsequent to the weeks in which the 1961 and
 14 1962 precinct re-registrations are to be held, and thereafter
 15 for the registration provided in Section 5-17 of this Article,
 16 all such applications shall be presented to the County Clerk by
 17 the applicant in person between the hours of nine o'clock a.m.
 18 and nine o'clock p.m. on Monday and Tuesday of the third week
 19 prior to the date on which such election is to be held.

20 Any otherwise qualified person who is absent from his
 21 county of residence either due to business of the United States
 22 or because he is temporarily outside the territorial limits of
 23 the United States may become registered by mailing an
 24 application to the county clerk within the periods of
 25 registration provided for in this Article or by simultaneous
 26 application for absentee registration and absentee ballot as

1 provided in Article 20 of this Code.

2 Upon receipt of such application the county clerk shall
3 immediately mail an affidavit of registration in duplicate,
4 which affidavit shall contain the following and such other
5 information as the State Board of Elections may think it proper
6 to require for the identification of the applicant:

7 Name. The name of the applicant, giving surname and first
8 or Christian name in full, and the middle name or the initial
9 for such middle name, if any.

10 Sex.

11 Residence. The name and number of the street, avenue or
12 other location of the dwelling, and such additional clear and
13 definite description as may be necessary to determine the exact
14 location of the dwelling of the applicant. Where the location
15 cannot be determined by street and number, then the Section,
16 congressional township and range number may be used, or such
17 other information as may be necessary, including post office
18 mailing address.

19 Electronic mail address, if the registrant has provided
20 this information.

21 Term of residence in the State of Illinois and the
22 precinct.

23 Nativity. The State or country in which the applicant was
24 born.

25 Citizenship. Whether the applicant is native born or
26 naturalized. If naturalized, the court, place and date of

1 naturalization.

2 Age. Date of birth, by month, day and year.

3 Out of State address of

4 AFFIDAVIT OF REGISTRATION

5 State of

6)ss

7 County of

8 I hereby swear (or affirm) that I am a citizen of the
9 United States; that on the day of the next election I shall
10 have resided in the State of Illinois for 6 months and in the
11 election precinct 30 days; that I am fully qualified to vote,
12 that I am not registered to vote anywhere else in the United
13 States, that I intend to remain a resident of the State of
14 Illinois and of the election precinct, that I intend to return
15 to the State of Illinois, and that the above statements are
16 true.

17

18 (His or her signature or mark)

19 Subscribed and sworn to before me, an officer qualified to
20 administer oaths, on (insert date).

21

22 Signature of officer administering oath.

23 Upon receipt of the executed duplicate affidavit of
24 Registration, the county clerk shall transfer the information
25 contained thereon to duplicate Registration Cards provided for

1 in Section 5-7 of this Article and shall attach thereto a copy
2 of each of the duplicate affidavit of registration and
3 thereafter such registration card and affidavit shall
4 constitute the registration of such person the same as if he
5 had applied for registration in person.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
7 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
8 98-756, eff. 7-16-14.)

9 (Text of Section after amendment by P.A. 98-1171)

10 Sec. 5-9. Except as herein provided, no person shall be
11 registered unless he applies in person to registration officer,
12 answers such relevant questions as may be asked of him by the
13 registration officer, and executes the affidavit of
14 registration. The registration officer shall require the
15 applicant to furnish two forms of identification, and except in
16 the case of a homeless individual, one of which must include
17 his or her residence address. These forms of identification
18 shall include, but not be limited to, any of the following:
19 driver's license, social security card, public aid
20 identification card, utility bill, employee or student
21 identification card, lease or contract for a residence, credit
22 card, or a civic, union or professional association membership
23 card. The registration officer shall require a homeless
24 individual to furnish evidence of his or her use of the mailing
25 address stated. This use may be demonstrated by a piece of mail

1 addressed to that individual and received at that address or by
2 a statement from a person authorizing use of the mailing
3 address. The registration officer shall require each applicant
4 for registration to read or have read to him the affidavit of
5 registration before permitting him to execute the affidavit.

6 One of the Deputy Registrars, the Judge of Registration, or
7 an Officer of Registration, County Clerk, or clerk in the
8 office of the County Clerk, shall administer to all persons who
9 shall personally apply to register the following oath or
10 affirmation:

11 "You do solemnly swear (or affirm) that you will fully and
12 truly answer all such questions as shall be put to you touching
13 your place of residence, name, place of birth, your
14 qualifications as an elector and your right as such to register
15 and vote under the laws of the State of Illinois."

16 The Registration Officer shall satisfy himself that each
17 applicant for registration is qualified to register before
18 registering him. If the registration officer has reason to
19 believe that the applicant is a resident of a Soldiers' and
20 Sailors' Home or any facility which is licensed or certified
21 pursuant to the Nursing Home Care Act, the Specialized Mental
22 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
23 Act, or the MC/DD Act, the following question shall be put,
24 "When you entered the home which is your present address, was
25 it your bona fide intention to become a resident thereof?" Any
26 voter of a township, city, village or incorporated town in

1 which such applicant resides, shall be permitted to be present
2 at the place of precinct registration, and shall have the right
3 to challenge any applicant who applies to be registered.

4 In case the officer is not satisfied that the applicant is
5 qualified, he shall forthwith in writing notify such applicant
6 to appear before the County Clerk to furnish further proof of
7 his qualifications. Upon the card of such applicant shall be
8 written the word "Incomplete" and no such applicant shall be
9 permitted to vote unless such registration is satisfactorily
10 completed as hereinafter provided. No registration shall be
11 taken and marked as "incomplete" if information to complete it
12 can be furnished on the date of the original application.

13 Any person claiming to be an elector in any election
14 precinct in such township, city, village or incorporated town
15 and whose registration is marked "Incomplete" may make and sign
16 an application in writing, under oath, to the County Clerk in
17 substance in the following form:

18 "I do solemnly swear that I,, did on (insert
19 date) make application to the Board of Registry of the
20 precinct of ward of the City of or of the
21 District Town of (or to the
22 County Clerk of) and County; that
23 said Board or Clerk refused to complete my registration as a
24 qualified voter in said precinct, that I reside in said
25 precinct (or that I intend to reside in said precinct), am a
26 duly qualified voter and entitled to vote in said precinct at

1 the next election.

2

3 (Signature of Applicant)"

4 All such applications shall be presented to the County
5 Clerk by the applicant, in person between the hours of nine
6 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
7 the third week subsequent to the weeks in which the 1961 and
8 1962 precinct re-registrations are to be held, and thereafter
9 for the registration provided in Section 5-17 of this Article,
10 all such applications shall be presented to the County Clerk by
11 the applicant in person between the hours of nine o'clock a.m.
12 and nine o'clock p.m. on Monday and Tuesday of the third week
13 prior to the date on which such election is to be held.

14 Any otherwise qualified person who is absent from his
15 county of residence either due to business of the United States
16 or because he is temporarily outside the territorial limits of
17 the United States may become registered by mailing an
18 application to the county clerk within the periods of
19 registration provided for in this Article or by simultaneous
20 application for registration by mail and vote by mail ballot as
21 provided in Article 20 of this Code.

22 Upon receipt of such application the county clerk shall
23 immediately mail an affidavit of registration in duplicate,
24 which affidavit shall contain the following and such other
25 information as the State Board of Elections may think it proper
26 to require for the identification of the applicant:

1 Name. The name of the applicant, giving surname and first
2 or Christian name in full, and the middle name or the initial
3 for such middle name, if any.

4 Sex.

5 Residence. The name and number of the street, avenue or
6 other location of the dwelling, and such additional clear and
7 definite description as may be necessary to determine the exact
8 location of the dwelling of the applicant. Where the location
9 cannot be determined by street and number, then the Section,
10 congressional township and range number may be used, or such
11 other information as may be necessary, including post office
12 mailing address.

13 Electronic mail address, if the registrant has provided
14 this information.

15 Term of residence in the State of Illinois and the
16 precinct.

17 Nativity. The State or country in which the applicant was
18 born.

19 Citizenship. Whether the applicant is native born or
20 naturalized. If naturalized, the court, place and date of
21 naturalization.

22 Age. Date of birth, by month, day and year.

23 Out of State address of

24 AFFIDAVIT OF REGISTRATION

25 State of)

26)ss

1 County of)

2 I hereby swear (or affirm) that I am a citizen of the
3 United States; that on the day of the next election I shall
4 have resided in the State of Illinois for 6 months and in the
5 election precinct 30 days; that I am fully qualified to vote,
6 that I am not registered to vote anywhere else in the United
7 States, that I intend to remain a resident of the State of
8 Illinois and of the election precinct, that I intend to return
9 to the State of Illinois, and that the above statements are
10 true.

11

12 (His or her signature or mark)

13 Subscribed and sworn to before me, an officer qualified to
14 administer oaths, on (insert date).

15

16 Signature of officer administering oath.

17 Upon receipt of the executed duplicate affidavit of
18 Registration, the county clerk shall transfer the information
19 contained thereon to duplicate Registration Cards provided for
20 in Section 5-7 of this Article and shall attach thereto a copy
21 of each of the duplicate affidavit of registration and
22 thereafter such registration card and affidavit shall
23 constitute the registration of such person the same as if he
24 had applied for registration in person.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,

1 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 10-1-13;
2 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

3 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

4 (Text of Section before amendment by P.A. 98-1171)

5 Sec. 5-16.3. The county clerk may establish temporary
6 places of registration for such times and at such locations
7 within the county as the county clerk may select. However, no
8 temporary place of registration may be in operation during the
9 27 days preceding an election. Notice of time and place of
10 registration at any such temporary place of registration under
11 this Section shall be published by the county clerk in a
12 newspaper having a general circulation in the county not less
13 than 3 nor more than 15 days before the holding of such
14 registration.

15 Temporary places of registration shall be established so
16 that the areas of concentration of population or use by the
17 public are served, whether by facilities provided in places of
18 private business or in public buildings or in mobile units.
19 Areas which may be designated as temporary places of
20 registration include, but are not limited to, facilities
21 licensed or certified pursuant to the Nursing Home Care Act,
22 the Specialized Mental Health Rehabilitation Act of 2013, or
23 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,
24 shopping centers, business districts, public buildings and
25 county fairs.

1 Temporary places of registration shall be available to the
2 public not less than 2 hours per year for each 1,000 population
3 or fraction thereof in the county.

4 All temporary places of registration shall be manned by
5 deputy county clerks or deputy registrars appointed pursuant to
6 Section 5-16.2.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-104, eff. 7-22-13.)

9 (Text of Section after amendment by P.A. 98-1171)

10 Sec. 5-16.3. The county clerk may establish temporary
11 places of registration for such times and at such locations
12 within the county as the county clerk may select. Notice of
13 time and place of registration at any such temporary place of
14 registration under this Section shall be published by the
15 county clerk in a newspaper having a general circulation in the
16 county not less than 3 nor more than 15 days before the holding
17 of such registration.

18 Temporary places of registration shall be established so
19 that the areas of concentration of population or use by the
20 public are served, whether by facilities provided in places of
21 private business or in public buildings or in mobile units.
22 Areas which may be designated as temporary places of
23 registration include, but are not limited to, facilities
24 licensed or certified pursuant to the Nursing Home Care Act,
25 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~

1 the ID/DD Community Care Act, or the MC/DD Act, Soldiers' and
2 Sailors' Homes, shopping centers, business districts, public
3 buildings and county fairs.

4 Temporary places of registration shall be available to the
5 public not less than 2 hours per year for each 1,000 population
6 or fraction thereof in the county.

7 All temporary places of registration shall be manned by
8 deputy county clerks or deputy registrars appointed pursuant to
9 Section 5-16.2.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

12 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

13 (Text of Section before amendment by P.A. 98-1171)

14 Sec. 6-50.3. The board of election commissioners may
15 establish temporary places of registration for such times and
16 at such locations as the board may select. However, no
17 temporary place of registration may be in operation during the
18 27 days preceding an election. Notice of the time and place of
19 registration at any such temporary place of registration under
20 this Section shall be published by the board of election
21 commissioners in a newspaper having a general circulation in
22 the city, village or incorporated town not less than 3 nor more
23 than 15 days before the holding of such registration.

24 Temporary places of registration shall be established so
25 that the areas of concentration of population or use by the

1 public are served, whether by facilities provided in places of
2 private business or in public buildings or in mobile units.
3 Areas which may be designated as temporary places of
4 registration include, but are not limited to, facilities
5 licensed or certified pursuant to the Nursing Home Care Act,
6 the Specialized Mental Health Rehabilitation Act of 2013, or
7 the ID/DD Community Care Act, Soldiers' and Sailors' Homes,
8 shopping centers, business districts, public buildings and
9 county fairs.

10 Temporary places of registration shall be available to the
11 public not less than 2 hours per year for each 1,000 population
12 or fraction thereof in the county.

13 All temporary places of registration shall be manned by
14 employees of the board of election commissioners or deputy
15 registrars appointed pursuant to Section 6-50.2.

16 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
17 eff. 7-13-12; 98-104, eff. 7-22-13.)

18 (Text of Section after amendment by P.A. 98-1171)

19 Sec. 6-50.3. The board of election commissioners may
20 establish temporary places of registration for such times and
21 at such locations as the board may select. Notice of the time
22 and place of registration at any such temporary place of
23 registration under this Section shall be published by the board
24 of election commissioners in a newspaper having a general
25 circulation in the city, village or incorporated town not less

1 than 3 nor more than 15 days before the holding of such
2 registration.

3 Temporary places of registration shall be established so
4 that the areas of concentration of population or use by the
5 public are served, whether by facilities provided in places of
6 private business or in public buildings or in mobile units.
7 Areas which may be designated as temporary places of
8 registration include, but are not limited to, facilities
9 licensed or certified pursuant to the Nursing Home Care Act,
10 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
11 the ID/DD Community Care Act, or the MC/DD Act, Soldiers' and
12 Sailors' Homes, shopping centers, business districts, public
13 buildings and county fairs.

14 Temporary places of registration shall be available to the
15 public not less than 2 hours per year for each 1,000 population
16 or fraction thereof in the county.

17 All temporary places of registration shall be manned by
18 employees of the board of election commissioners or deputy
19 registrars appointed pursuant to Section 6-50.2.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

22 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

23 Sec. 6-56. Not more than 30 nor less than 28 days before
24 any election under this Article, all owners, managers,
25 administrators or operators of hotels, lodging houses, rooming

1 houses, furnished apartments or facilities licensed or
2 certified under the Nursing Home Care Act, which house 4 or
3 more persons, outside the members of the family of such owner,
4 manager, administrator or operator, shall file with the board
5 of election commissioners a report, under oath, together with
6 one copy thereof, in such form as may be required by the board
7 of election commissioners, of the names and descriptions of all
8 lodgers, guests or residents claiming a voting residence at the
9 hotels, lodging houses, rooming houses, furnished apartments,
10 or facility licensed or certified under the Nursing Home Care
11 Act, the Specialized Mental Health Rehabilitation Act of 2013,
12 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act under their
13 control. In counties having a population of 500,000 or more
14 such report shall be made on forms mailed to them by the board
15 of election commissioners. The board of election commissioners
16 shall sort and assemble the sworn copies of the reports in
17 numerical order according to ward and according to precincts
18 within each ward and shall, not later than 5 days after the
19 last day allowed by this Article for the filing of the reports,
20 maintain one assembled set of sworn duplicate reports available
21 for public inspection until 60 days after election days. Except
22 as is otherwise expressly provided in this Article, the board
23 shall not be required to perform any duties with respect to the
24 sworn reports other than to mail, sort, assemble, post and file
25 them as hereinabove provided.

26 Except in such cases where a precinct canvass is being

1 conducted by the Board of Election Commissioners prior to a
2 Primary or Election, the board of election commissioners shall
3 compare the original copy of each such report with the list of
4 registered voters from such addresses. Every person registered
5 from such address and not listed in such report or whose name
6 is different from any name so listed, shall immediately after
7 the last day of registration be sent a notice through the
8 United States mail, at the address appearing upon his
9 registration record card, requiring him to appear before the
10 board of election commissioners on one of the days specified in
11 Section 6-45 of this Article and show cause why his
12 registration should not be cancelled. The provisions of
13 Sections 6-45, 6-46 and 6-47 of this Article shall apply to
14 such hearing and proceedings subsequent thereto.

15 Any owner, manager or operator of any such hotel, lodging
16 house, rooming house or furnished apartment who shall fail or
17 neglect to file such statement and copy thereof as in this
18 Article provided, may, upon written information of the attorney
19 for the election commissioners, be cited by the election
20 commissioners or upon the complaint of any voter of such city,
21 village or incorporated town, to appear before them and furnish
22 such sworn statement and copy thereof and make such oral
23 statements under oath regarding such hotel, lodging house,
24 rooming house or furnished apartment, as the election
25 commissioners may require. The election commissioners shall
26 sit to hear such citations on the Friday of the fourth week

1 preceding the week in which such election is to be held. Such
2 citation shall be served not later than the day preceding the
3 day on which it is returnable.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13.)

6 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

7 (Text of Section before amendment by P.A. 98-1171)

8 Sec. 19-4. Mailing or delivery of ballots; time.

9 Immediately upon the receipt of such application either by mail
10 or electronic means, not more than 40 days nor less than 5 days
11 prior to such election, or by personal delivery not more than
12 40 days nor less than one day prior to such election, at the
13 office of such election authority, it shall be the duty of such
14 election authority to examine the records to ascertain whether
15 or not such applicant is lawfully entitled to vote as
16 requested, including a verification of the applicant's
17 signature by comparison with the signature on the official
18 registration record card, and if found so to be entitled to
19 vote, to post within one business day thereafter the name,
20 street address, ward and precinct number or township and
21 district number, as the case may be, of such applicant given on
22 a list, the pages of which are to be numbered consecutively to
23 be kept by such election authority for such purpose in a
24 conspicuous, open and public place accessible to the public at
25 the entrance of the office of such election authority, and in

1 such a manner that such list may be viewed without necessity of
2 requesting permission therefor. Within one day after posting
3 the name and other information of an applicant for an absentee
4 ballot, the election authority shall transmit by electronic
5 means pursuant to a process established by the State Board of
6 Elections that name and other posted information to the State
7 Board of Elections, which shall maintain those names and other
8 information in an electronic format on its website, arranged by
9 county and accessible to State and local political committees.
10 Within 2 business days after posting a name and other
11 information on the list within its office, the election
12 authority shall mail, postage prepaid, or deliver in person in
13 such office an official ballot or ballots if more than one are
14 to be voted at said election. Mail delivery of Temporarily
15 Absent Student ballot applications pursuant to Section 19-12.3
16 shall be by nonforwardable mail. However, for the consolidated
17 election, absentee ballots for certain precincts may be
18 delivered to applicants not less than 25 days before the
19 election if so much time is required to have prepared and
20 printed the ballots containing the names of persons nominated
21 for offices at the consolidated primary. The election authority
22 shall enclose with each absentee ballot or application written
23 instructions on how voting assistance shall be provided
24 pursuant to Section 17-14 and a document, written and approved
25 by the State Board of Elections, enumerating the circumstances
26 under which a person is authorized to vote by absentee ballot

1 pursuant to this Article; such document shall also include a
2 statement informing the applicant that if he or she falsifies
3 or is solicited by another to falsify his or her eligibility to
4 cast an absentee ballot, such applicant or other is subject to
5 penalties pursuant to Section 29-10 and Section 29-20 of the
6 Election Code. Each election authority shall maintain a list of
7 the name, street address, ward and precinct, or township and
8 district number, as the case may be, of all applicants who have
9 returned absentee ballots to such authority, and the name of
10 such absent voter shall be added to such list within one
11 business day from receipt of such ballot. If the absentee
12 ballot envelope indicates that the voter was assisted in
13 casting the ballot, the name of the person so assisting shall
14 be included on the list. The list, the pages of which are to be
15 numbered consecutively, shall be kept by each election
16 authority in a conspicuous, open, and public place accessible
17 to the public at the entrance of the office of the election
18 authority and in a manner that the list may be viewed without
19 necessity of requesting permission for viewing.

20 Each election authority shall maintain a list for each
21 election of the voters to whom it has issued absentee ballots.
22 The list shall be maintained for each precinct within the
23 jurisdiction of the election authority. Prior to the opening of
24 the polls on election day, the election authority shall deliver
25 to the judges of election in each precinct the list of
26 registered voters in that precinct to whom absentee ballots

1 have been issued by mail.

2 Each election authority shall maintain a list for each
3 election of voters to whom it has issued temporarily absent
4 student ballots. The list shall be maintained for each election
5 jurisdiction within which such voters temporarily abide.
6 Immediately after the close of the period during which
7 application may be made by mail or electronic means for
8 absentee ballots, each election authority shall mail to each
9 other election authority within the State a certified list of
10 all such voters temporarily abiding within the jurisdiction of
11 the other election authority.

12 In the event that the return address of an application for
13 ballot by a physically incapacitated elector is that of a
14 facility licensed or certified under the Nursing Home Care Act,
15 the Specialized Mental Health Rehabilitation Act of 2013, or
16 the ID/DD Community Care Act, within the jurisdiction of the
17 election authority, and the applicant is a registered voter in
18 the precinct in which such facility is located, the ballots
19 shall be prepared and transmitted to a responsible judge of
20 election no later than 9 a.m. on the Saturday, Sunday or Monday
21 immediately preceding the election as designated by the
22 election authority under Section 19-12.2. Such judge shall
23 deliver in person on the designated day the ballot to the
24 applicant on the premises of the facility from which
25 application was made. The election authority shall by mail
26 notify the applicant in such facility that the ballot will be

1 delivered by a judge of election on the designated day.

2 All applications for absentee ballots shall be available at
3 the office of the election authority for public inspection upon
4 request from the time of receipt thereof by the election
5 authority until 30 days after the election, except during the
6 time such applications are kept in the office of the election
7 authority pursuant to Section 19-7, and except during the time
8 such applications are in the possession of the judges of
9 election.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 7-29-13;
12 98-756, eff. 7-16-14.)

13 (Text of Section after amendment by P.A. 98-1171)

14 Sec. 19-4. Mailing or delivery of ballots; time.
15 Immediately upon the receipt of such application either by mail
16 or electronic means, not more than 90 days nor less than 5 days
17 prior to such election, or by personal delivery not more than
18 90 days nor less than one day prior to such election, at the
19 office of such election authority, it shall be the duty of such
20 election authority to examine the records to ascertain whether
21 or not such applicant is lawfully entitled to vote as
22 requested, including a verification of the applicant's
23 signature by comparison with the signature on the official
24 registration record card, and if found so to be entitled to
25 vote, to post within one business day thereafter the name,

1 street address, ward and precinct number or township and
2 district number, as the case may be, of such applicant given on
3 a list, the pages of which are to be numbered consecutively to
4 be kept by such election authority for such purpose in a
5 conspicuous, open and public place accessible to the public at
6 the entrance of the office of such election authority, and in
7 such a manner that such list may be viewed without necessity of
8 requesting permission therefor. Within one day after posting
9 the name and other information of an applicant for a vote by
10 mail ballot, the election authority shall transmit by
11 electronic means pursuant to a process established by the State
12 Board of Elections that name and other posted information to
13 the State Board of Elections, which shall maintain those names
14 and other information in an electronic format on its website,
15 arranged by county and accessible to State and local political
16 committees. Within 2 business days after posting a name and
17 other information on the list within its office, but no sooner
18 than 40 days before an election, the election authority shall
19 mail, postage prepaid, or deliver in person in such office an
20 official ballot or ballots if more than one are to be voted at
21 said election. Mail delivery of Temporarily Absent Student
22 ballot applications pursuant to Section 19-12.3 shall be by
23 nonforwardable mail. However, for the consolidated election,
24 vote by mail ballots for certain precincts may be delivered to
25 applicants not less than 25 days before the election if so much
26 time is required to have prepared and printed the ballots

1 containing the names of persons nominated for offices at the
2 consolidated primary. The election authority shall enclose
3 with each vote by mail ballot or application written
4 instructions on how voting assistance shall be provided
5 pursuant to Section 17-14 and a document, written and approved
6 by the State Board of Elections, informing the vote by mail
7 voter of the required postage for returning the application and
8 ballot, and enumerating the circumstances under which a person
9 is authorized to vote by vote by mail ballot pursuant to this
10 Article; such document shall also include a statement informing
11 the applicant that if he or she falsifies or is solicited by
12 another to falsify his or her eligibility to cast a vote by
13 mail ballot, such applicant or other is subject to penalties
14 pursuant to Section 29-10 and Section 29-20 of the Election
15 Code. Each election authority shall maintain a list of the
16 name, street address, ward and precinct, or township and
17 district number, as the case may be, of all applicants who have
18 returned vote by mail ballots to such authority, and the name
19 of such vote by mail voter shall be added to such list within
20 one business day from receipt of such ballot. If the vote by
21 mail ballot envelope indicates that the voter was assisted in
22 casting the ballot, the name of the person so assisting shall
23 be included on the list. The list, the pages of which are to be
24 numbered consecutively, shall be kept by each election
25 authority in a conspicuous, open, and public place accessible
26 to the public at the entrance of the office of the election

1 authority and in a manner that the list may be viewed without
2 necessity of requesting permission for viewing.

3 Each election authority shall maintain a list for each
4 election of the voters to whom it has issued vote by mail
5 ballots. The list shall be maintained for each precinct within
6 the jurisdiction of the election authority. Prior to the
7 opening of the polls on election day, the election authority
8 shall deliver to the judges of election in each precinct the
9 list of registered voters in that precinct to whom vote by mail
10 ballots have been issued by mail.

11 Each election authority shall maintain a list for each
12 election of voters to whom it has issued temporarily absent
13 student ballots. The list shall be maintained for each election
14 jurisdiction within which such voters temporarily abide.
15 Immediately after the close of the period during which
16 application may be made by mail or electronic means for vote by
17 mail ballots, each election authority shall mail to each other
18 election authority within the State a certified list of all
19 such voters temporarily abiding within the jurisdiction of the
20 other election authority.

21 In the event that the return address of an application for
22 ballot by a physically incapacitated elector is that of a
23 facility licensed or certified under the Nursing Home Care Act,
24 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
25 the ID/DD Community Care Act, or the MC/DD Act, within the
26 jurisdiction of the election authority, and the applicant is a

1 registered voter in the precinct in which such facility is
2 located, the ballots shall be prepared and transmitted to a
3 responsible judge of election no later than 9 a.m. on the
4 Saturday, Sunday or Monday immediately preceding the election
5 as designated by the election authority under Section 19-12.2.
6 Such judge shall deliver in person on the designated day the
7 ballot to the applicant on the premises of the facility from
8 which application was made. The election authority shall by
9 mail notify the applicant in such facility that the ballot will
10 be delivered by a judge of election on the designated day.

11 All applications for vote by mail ballots shall be
12 available at the office of the election authority for public
13 inspection upon request from the time of receipt thereof by the
14 election authority until 30 days after the election, except
15 during the time such applications are kept in the office of the
16 election authority pursuant to Section 19-7, and except during
17 the time such applications are in the possession of the judges
18 of election.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13; 98-115, eff. 7-29-13;
21 98-756, eff. 7-16-14; 98-1171, eff. 6-1-15.)

22 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

23 (Text of Section before amendment by P.A. 98-1171)

24 Sec. 19-12.1. Any qualified elector who has secured an
25 Illinois Person with a Disability Identification Card in

1 accordance with the Illinois Identification Card Act,
2 indicating that the person named thereon has a Class 1A or
3 Class 2 disability or any qualified voter who has a permanent
4 physical incapacity of such a nature as to make it improbable
5 that he will be able to be present at the polls at any future
6 election, or any voter who is a resident of (i) a federally
7 operated veterans' home, hospital, or facility located in
8 Illinois or (ii) a facility licensed or certified pursuant to
9 the Nursing Home Care Act, the Specialized Mental Health
10 Rehabilitation Act of 2013, or the ID/DD Community Care Act and
11 has a condition or disability of such a nature as to make it
12 improbable that he will be able to be present at the polls at
13 any future election, may secure a disabled voter's or nursing
14 home resident's identification card, which will enable him to
15 vote under this Article as a physically incapacitated or
16 nursing home voter. For the purposes of this Section,
17 "federally operated veterans' home, hospital, or facility"
18 means the long-term care facilities at the Jesse Brown VA
19 Medical Center, Illiana Health Care System, Edward Hines, Jr.
20 VA Hospital, Marion VA Medical Center, and Captain James A.
21 Lovell Federal Health Care Center.

22 Application for a disabled voter's or nursing home
23 resident's identification card shall be made either: (a) in
24 writing, with voter's sworn affidavit, to the county clerk or
25 board of election commissioners, as the case may be, and shall
26 be accompanied by the affidavit of the attending physician

1 specifically describing the nature of the physical incapacity
2 or the fact that the voter is a nursing home resident and is
3 physically unable to be present at the polls on election days;
4 or (b) by presenting, in writing or otherwise, to the county
5 clerk or board of election commissioners, as the case may be,
6 proof that the applicant has secured an Illinois Person with a
7 Disability Identification Card indicating that the person
8 named thereon has a Class 1A or Class 2 disability. Upon the
9 receipt of either the sworn-to application and the physician's
10 affidavit or proof that the applicant has secured an Illinois
11 Person with a Disability Identification Card indicating that
12 the person named thereon has a Class 1A or Class 2 disability,
13 the county clerk or board of election commissioners shall issue
14 a disabled voter's or nursing home resident's identification
15 card. Such identification cards shall be issued for a period of
16 5 years, upon the expiration of which time the voter may secure
17 a new card by making application in the same manner as is
18 prescribed for the issuance of an original card, accompanied by
19 a new affidavit of the attending physician. The date of
20 expiration of such five-year period shall be made known to any
21 interested person by the election authority upon the request of
22 such person. Applications for the renewal of the identification
23 cards shall be mailed to the voters holding such cards not less
24 than 3 months prior to the date of expiration of the cards.

25 Each disabled voter's or nursing home resident's
26 identification card shall bear an identification number, which

1 shall be clearly noted on the voter's original and duplicate
2 registration record cards. In the event the holder becomes
3 physically capable of resuming normal voting, he must surrender
4 his disabled voter's or nursing home resident's identification
5 card to the county clerk or board of election commissioners
6 before the next election.

7 The holder of a disabled voter's or nursing home resident's
8 identification card may make application by mail for an
9 official ballot within the time prescribed by Section 19-2.
10 Such application shall contain the same information as is
11 included in the form of application for ballot by a physically
12 incapacitated elector prescribed in Section 19-3 except that it
13 shall also include the applicant's disabled voter's
14 identification card number and except that it need not be sworn
15 to. If an examination of the records discloses that the
16 applicant is lawfully entitled to vote, he shall be mailed a
17 ballot as provided in Section 19-4. The ballot envelope shall
18 be the same as that prescribed in Section 19-5 for physically
19 disabled voters, and the manner of voting and returning the
20 ballot shall be the same as that provided in this Article for
21 other absentee ballots, except that a statement to be
22 subscribed to by the voter but which need not be sworn to shall
23 be placed on the ballot envelope in lieu of the affidavit
24 prescribed by Section 19-5.

25 Any person who knowingly subscribes to a false statement in
26 connection with voting under this Section shall be guilty of a

1 Class A misdemeanor.

2 For the purposes of this Section, "nursing home resident"
3 includes a resident of (i) a federally operated veterans' home,
4 hospital, or facility located in Illinois or (ii) a facility
5 licensed under the ID/DD Community Care Act or the Specialized
6 Mental Health Rehabilitation Act of 2013. For the purposes of
7 this Section, "federally operated veterans' home, hospital, or
8 facility" means the long-term care facilities at the Jesse
9 Brown VA Medical Center, Illiana Health Care System, Edward
10 Hines, Jr. VA Hospital, Marion VA Medical Center, and Captain
11 James A. Lovell Federal Health Care Center.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
13 eff. 1-1-12; 97-813, eff. 7-13-12; 97-1064, eff. 1-1-13;
14 98-104, eff. 7-22-13.)

15 (Text of Section after amendment by P.A. 98-1171)

16 Sec. 19-12.1. Any qualified elector who has secured an
17 Illinois Person with a Disability Identification Card in
18 accordance with the Illinois Identification Card Act,
19 indicating that the person named thereon has a Class 1A or
20 Class 2 disability or any qualified voter who has a permanent
21 physical incapacity of such a nature as to make it improbable
22 that he will be able to be present at the polls at any future
23 election, or any voter who is a resident of (i) a federally
24 operated veterans' home, hospital, or facility located in
25 Illinois or (ii) a facility licensed or certified pursuant to

1 the Nursing Home Care Act, the Specialized Mental Health
2 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
3 the MC/DD Act and has a condition or disability of such a
4 nature as to make it improbable that he will be able to be
5 present at the polls at any future election, may secure a
6 disabled voter's or nursing home resident's identification
7 card, which will enable him to vote under this Article as a
8 physically incapacitated or nursing home voter. For the
9 purposes of this Section, "federally operated veterans' home,
10 hospital, or facility" means the long-term care facilities at
11 the Jesse Brown VA Medical Center, Illiana Health Care System,
12 Edward Hines, Jr. VA Hospital, Marion VA Medical Center, and
13 Captain James A. Lovell Federal Health Care Center.

14 Application for a disabled voter's or nursing home
15 resident's identification card shall be made either: (a) in
16 writing, with voter's sworn affidavit, to the county clerk or
17 board of election commissioners, as the case may be, and shall
18 be accompanied by the affidavit of the attending physician
19 specifically describing the nature of the physical incapacity
20 or the fact that the voter is a nursing home resident and is
21 physically unable to be present at the polls on election days;
22 or (b) by presenting, in writing or otherwise, to the county
23 clerk or board of election commissioners, as the case may be,
24 proof that the applicant has secured an Illinois Person with a
25 Disability Identification Card indicating that the person
26 named thereon has a Class 1A or Class 2 disability. Upon the

1 receipt of either the sworn-to application and the physician's
2 affidavit or proof that the applicant has secured an Illinois
3 Person with a Disability Identification Card indicating that
4 the person named thereon has a Class 1A or Class 2 disability,
5 the county clerk or board of election commissioners shall issue
6 a disabled voter's or nursing home resident's identification
7 card. Such identification cards shall be issued for a period of
8 5 years, upon the expiration of which time the voter may secure
9 a new card by making application in the same manner as is
10 prescribed for the issuance of an original card, accompanied by
11 a new affidavit of the attending physician. The date of
12 expiration of such five-year period shall be made known to any
13 interested person by the election authority upon the request of
14 such person. Applications for the renewal of the identification
15 cards shall be mailed to the voters holding such cards not less
16 than 3 months prior to the date of expiration of the cards.

17 Each disabled voter's or nursing home resident's
18 identification card shall bear an identification number, which
19 shall be clearly noted on the voter's original and duplicate
20 registration record cards. In the event the holder becomes
21 physically capable of resuming normal voting, he must surrender
22 his disabled voter's or nursing home resident's identification
23 card to the county clerk or board of election commissioners
24 before the next election.

25 The holder of a disabled voter's or nursing home resident's
26 identification card may make application by mail for an

1 official ballot within the time prescribed by Section 19-2.
2 Such application shall contain the same information as is
3 included in the form of application for ballot by a physically
4 incapacitated elector prescribed in Section 19-3 except that it
5 shall also include the applicant's disabled voter's
6 identification card number and except that it need not be sworn
7 to. If an examination of the records discloses that the
8 applicant is lawfully entitled to vote, he shall be mailed a
9 ballot as provided in Section 19-4. The ballot envelope shall
10 be the same as that prescribed in Section 19-5 for physically
11 disabled voters, and the manner of voting and returning the
12 ballot shall be the same as that provided in this Article for
13 other vote by mail ballots, except that a statement to be
14 subscribed to by the voter but which need not be sworn to shall
15 be placed on the ballot envelope in lieu of the affidavit
16 prescribed by Section 19-5.

17 Any person who knowingly subscribes to a false statement in
18 connection with voting under this Section shall be guilty of a
19 Class A misdemeanor.

20 For the purposes of this Section, "nursing home resident"
21 includes a resident of (i) a federally operated veterans' home,
22 hospital, or facility located in Illinois or (ii) a facility
23 licensed under the ID/DD Community Care Act, the MC/DD Act, or
24 the Specialized Mental Health Rehabilitation Act of 2013. For
25 the purposes of this Section, "federally operated veterans'
26 home, hospital, or facility" means the long-term care

1 facilities at the Jesse Brown VA Medical Center, Illiana Health
2 Care System, Edward Hines, Jr. VA Hospital, Marion VA Medical
3 Center, and Captain James A. Lovell Federal Health Care Center.
4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
5 eff. 1-1-12; 97-813, eff. 7-13-12; 97-1064, eff. 1-1-13;
6 98-104, eff. 7-22-13; 98-1171, eff. 6-1-15.)

7 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

8 (Text of Section before amendment by P.A. 98-1171)

9 Sec. 19-12.2. Voting by physically incapacitated electors
10 who have made proper application to the election authority not
11 later than 5 days before the regular primary and general
12 election of 1980 and before each election thereafter shall be
13 conducted on the premises of (i) federally operated veterans'
14 homes, hospitals, and facilities located in Illinois or (ii)
15 facilities licensed or certified pursuant to the Nursing Home
16 Care Act, the Specialized Mental Health Rehabilitation Act of
17 2013, or the ID/DD Community Care Act for the sole benefit of
18 residents of such homes, hospitals, and facilities. For the
19 purposes of this Section, "federally operated veterans' home,
20 hospital, or facility" means the long-term care facilities at
21 the Jesse Brown VA Medical Center, Illiana Health Care System,
22 Edward Hines, Jr. VA Hospital, Marion VA Medical Center, and
23 Captain James A. Lovell Federal Health Care Center. Such voting
24 shall be conducted during any continuous period sufficient to
25 allow all applicants to cast their ballots between the hours of

1 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or
2 Monday immediately preceding the regular election. This
3 absentee voting on one of said days designated by the election
4 authority shall be supervised by two election judges who must
5 be selected by the election authority in the following order of
6 priority: (1) from the panel of judges appointed for the
7 precinct in which such home, hospital, or facility is located,
8 or from a panel of judges appointed for any other precinct
9 within the jurisdiction of the election authority in the same
10 ward or township, as the case may be, in which the home,
11 hospital, or facility is located or, only in the case where a
12 judge or judges from the precinct, township or ward are
13 unavailable to serve, (3) from a panel of judges appointed for
14 any other precinct within the jurisdiction of the election
15 authority. The two judges shall be from different political
16 parties. Not less than 30 days before each regular election,
17 the election authority shall have arranged with the chief
18 administrative officer of each home, hospital, or facility in
19 his or its election jurisdiction a mutually convenient time
20 period on the Friday, Saturday, Sunday or Monday immediately
21 preceding the election for such voting on the premises of the
22 home, hospital, or facility and shall post in a prominent place
23 in his or its office a notice of the agreed day and time period
24 for conducting such voting at each home, hospital, or facility;
25 provided that the election authority shall not later than noon
26 on the Thursday before the election also post the names and

1 addresses of those homes, hospitals, and facilities from which
2 no applications were received and in which no supervised
3 absentee voting will be conducted. All provisions of this Code
4 applicable to pollwatchers shall be applicable herein. To the
5 maximum extent feasible, voting booths or screens shall be
6 provided to insure the privacy of the voter. Voting procedures
7 shall be as described in Article 17 of this Code, except that
8 ballots shall be treated as absentee ballots and shall not be
9 counted until the close of the polls on the following day.
10 After the last voter has concluded voting, the judges shall
11 seal the ballots in an envelope and affix their signatures
12 across the flap of the envelope. Immediately thereafter, the
13 judges shall bring the sealed envelope to the office of the
14 election authority who shall deliver such ballots to the
15 election authority's central ballot counting location prior to
16 the closing of the polls on the day of election. The judges of
17 election shall also report to the election authority the name
18 of any applicant in the home, hospital, or facility who, due to
19 unforeseen circumstance or condition or because of a religious
20 holiday, was unable to vote. In this event, the election
21 authority may appoint a qualified person from his or its staff
22 to deliver the ballot to such applicant on the day of election.
23 This staff person shall follow the same procedures prescribed
24 for judges conducting absentee voting in such homes, hospitals,
25 or facilities and shall return the ballot to the central ballot
26 counting location before the polls close. However, if the home,

1 hospital, or facility from which the application was made is
2 also used as a regular precinct polling place for that voter,
3 voting procedures heretofore prescribed may be implemented by 2
4 of the election judges of opposite party affiliation assigned
5 to that polling place during the hours of voting on the day of
6 the election. Judges of election shall be compensated not less
7 than \$25.00 for conducting absentee voting in such homes,
8 hospitals, or facilities.

9 Not less than 120 days before each regular election, the
10 Department of Public Health shall certify to the State Board of
11 Elections a list of the facilities licensed or certified
12 pursuant to the Nursing Home Care Act, the Specialized Mental
13 Health Rehabilitation Act of 2013, or the ID/DD Community Care
14 Act. The lists shall indicate the approved bed capacity and the
15 name of the chief administrative officer of each such home,
16 hospital, or facility, and the State Board of Elections shall
17 certify the same to the appropriate election authority within
18 20 days thereafter.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
20 eff. 1-1-12; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13.)

21 (Text of Section after amendment by P.A. 98-1171)

22 Sec. 19-12.2. Voting by physically incapacitated electors
23 who have made proper application to the election authority not
24 later than 5 days before the regular primary and general
25 election of 1980 and before each election thereafter shall be

1 conducted on the premises of (i) federally operated veterans'
2 homes, hospitals, and facilities located in Illinois or (ii)
3 facilities licensed or certified pursuant to the Nursing Home
4 Care Act, the Specialized Mental Health Rehabilitation Act of
5 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act for the
6 sole benefit of residents of such homes, hospitals, and
7 facilities. For the purposes of this Section, "federally
8 operated veterans' home, hospital, or facility" means the
9 long-term care facilities at the Jesse Brown VA Medical Center,
10 Illiana Health Care System, Edward Hines, Jr. VA Hospital,
11 Marion VA Medical Center, and Captain James A. Lovell Federal
12 Health Care Center. Such voting shall be conducted during any
13 continuous period sufficient to allow all applicants to cast
14 their ballots between the hours of 9 a.m. and 7 p.m. either on
15 the Friday, Saturday, Sunday or Monday immediately preceding
16 the regular election. This vote by mail voting on one of said
17 days designated by the election authority shall be supervised
18 by two election judges who must be selected by the election
19 authority in the following order of priority: (1) from the
20 panel of judges appointed for the precinct in which such home,
21 hospital, or facility is located, or from a panel of judges
22 appointed for any other precinct within the jurisdiction of the
23 election authority in the same ward or township, as the case
24 may be, in which the home, hospital, or facility is located or,
25 only in the case where a judge or judges from the precinct,
26 township or ward are unavailable to serve, (3) from a panel of

1 judges appointed for any other precinct within the jurisdiction
2 of the election authority. The two judges shall be from
3 different political parties. Not less than 30 days before each
4 regular election, the election authority shall have arranged
5 with the chief administrative officer of each home, hospital,
6 or facility in his or its election jurisdiction a mutually
7 convenient time period on the Friday, Saturday, Sunday or
8 Monday immediately preceding the election for such voting on
9 the premises of the home, hospital, or facility and shall post
10 in a prominent place in his or its office a notice of the
11 agreed day and time period for conducting such voting at each
12 home, hospital, or facility; provided that the election
13 authority shall not later than noon on the Thursday before the
14 election also post the names and addresses of those homes,
15 hospitals, and facilities from which no applications were
16 received and in which no supervised vote by mail voting will be
17 conducted. All provisions of this Code applicable to
18 pollwatchers shall be applicable herein. To the maximum extent
19 feasible, voting booths or screens shall be provided to insure
20 the privacy of the voter. Voting procedures shall be as
21 described in Article 17 of this Code, except that ballots shall
22 be treated as vote by mail ballots and shall not be counted
23 until the close of the polls on the following day. After the
24 last voter has concluded voting, the judges shall seal the
25 ballots in an envelope and affix their signatures across the
26 flap of the envelope. Immediately thereafter, the judges shall

1 bring the sealed envelope to the office of the election
2 authority who shall deliver such ballots to the election
3 authority's central ballot counting location prior to the
4 closing of the polls on the day of election. The judges of
5 election shall also report to the election authority the name
6 of any applicant in the home, hospital, or facility who, due to
7 unforeseen circumstance or condition or because of a religious
8 holiday, was unable to vote. In this event, the election
9 authority may appoint a qualified person from his or its staff
10 to deliver the ballot to such applicant on the day of election.
11 This staff person shall follow the same procedures prescribed
12 for judges conducting vote by mail voting in such homes,
13 hospitals, or facilities and shall return the ballot to the
14 central ballot counting location before the polls close.
15 However, if the home, hospital, or facility from which the
16 application was made is also used as a regular precinct polling
17 place for that voter, voting procedures heretofore prescribed
18 may be implemented by 2 of the election judges of opposite
19 party affiliation assigned to that polling place during the
20 hours of voting on the day of the election. Judges of election
21 shall be compensated not less than \$25.00 for conducting vote
22 by mail voting in such homes, hospitals, or facilities.

23 Not less than 120 days before each regular election, the
24 Department of Public Health shall certify to the State Board of
25 Elections a list of the facilities licensed or certified
26 pursuant to the Nursing Home Care Act, the Specialized Mental

1 Health Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
2 Act, or the MC/DD Act. The lists shall indicate the approved
3 bed capacity and the name of the chief administrative officer
4 of each such home, hospital, or facility, and the State Board
5 of Elections shall certify the same to the appropriate election
6 authority within 20 days thereafter.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-275,
8 eff. 1-1-12; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13;
9 98-1171, eff. 6-1-15.)

10 Section 10. The Illinois Act on the Aging is amended by
11 changing Sections 4.04 and 4.08 as follows:

12 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

13 Sec. 4.04. Long Term Care Ombudsman Program. The purpose of
14 the Long Term Care Ombudsman Program is to ensure that older
15 persons and persons with disabilities receive quality
16 services. This is accomplished by providing advocacy services
17 for residents of long term care facilities and participants
18 receiving home care and community-based care. Managed care is
19 increasingly becoming the vehicle for delivering health and
20 long-term services and supports to seniors and persons with
21 disabilities, including dual eligible participants. The
22 additional ombudsman authority will allow advocacy services to
23 be provided to Illinois participants for the first time and
24 will produce a cost savings for the State of Illinois by

1 supporting the rebalancing efforts of the Patient Protection
2 and Affordable Care Act.

3 (a) Long Term Care Ombudsman Program. The Department shall
4 establish a Long Term Care Ombudsman Program, through the
5 Office of State Long Term Care Ombudsman ("the Office"), in
6 accordance with the provisions of the Older Americans Act of
7 1965, as now or hereafter amended. The Long Term Care Ombudsman
8 Program is authorized, subject to sufficient appropriations,
9 to advocate on behalf of older persons and persons with
10 disabilities residing in their own homes or community-based
11 settings, relating to matters which may adversely affect the
12 health, safety, welfare, or rights of such individuals.

13 (b) Definitions. As used in this Section, unless the
14 context requires otherwise:

15 (1) "Access" means the right to:

16 (i) Enter any long term care facility or assisted
17 living or shared housing establishment or supportive
18 living facility;

19 (ii) Communicate privately and without restriction
20 with any resident, regardless of age, who consents to
21 the communication;

22 (iii) Seek consent to communicate privately and
23 without restriction with any participant or resident,
24 regardless of age;

25 (iv) Inspect the clinical and other records of a
26 participant or resident, regardless of age, with the

1 express written consent of the participant or
2 resident;

3 (v) Observe all areas of the long term care
4 facility or supportive living facilities, assisted
5 living or shared housing establishment except the
6 living area of any resident who protests the
7 observation; and

8 (vi) Subject to permission of the participant or
9 resident requesting services or his or her
10 representative, enter a home or community-based
11 setting.

12 (2) "Long Term Care Facility" means (i) any facility as
13 defined by Section 1-113 of the Nursing Home Care Act, as
14 now or hereafter amended; ~~and~~ (ii) any skilled nursing
15 facility or a nursing facility which meets the requirements
16 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
17 (b), (c), and (d) of the Social Security Act, as now or
18 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
19 and 42 U.S.C. 1396r(a), (b), (c), and (d)); (iii) and any
20 facility as defined by Section 1-113 of the ID/DD MR/DD
21 Community Care Act, as now or hereafter amended; and (iv)
22 any facility as defined by Section 1-113 of MC/DD Act, as
23 now or hereafter amended.

24 (2.5) "Assisted living establishment" and "shared
25 housing establishment" have the meanings given those terms
26 in Section 10 of the Assisted Living and Shared Housing

1 Act.

2 (2.7) "Supportive living facility" means a facility
3 established under Section 5-5.01a of the Illinois Public
4 Aid Code.

5 (2.8) "Community-based setting" means any place of
6 abode other than an individual's private home.

7 (3) "State Long Term Care Ombudsman" means any person
8 employed by the Department to fulfill the requirements of
9 the Office of State Long Term Care Ombudsman as required
10 under the Older Americans Act of 1965, as now or hereafter
11 amended, and Departmental policy.

12 (3.1) "Ombudsman" means any designated representative
13 of the State Long Term Care Ombudsman Program; provided
14 that the representative, whether he is paid for or
15 volunteers his ombudsman services, shall be qualified and
16 designated by the Office to perform the duties of an
17 ombudsman as specified by the Department in rules and in
18 accordance with the provisions of the Older Americans Act
19 of 1965, as now or hereafter amended.

20 (4) "Participant" means an older person aged 60 or over
21 or an adult with a disability aged 18 through 59 who is
22 eligible for services under any of the following:

23 (i) A medical assistance waiver administered by
24 the State.

25 (ii) A managed care organization providing care
26 coordination and other services to seniors and persons

1 with disabilities.

2 (5) "Resident" means an older person aged 60 or over or
3 an adult with a disability aged 18 through 59 who resides
4 in a long-term care facility.

5 (c) Ombudsman; rules. The Office of State Long Term Care
6 Ombudsman shall be composed of at least one full-time ombudsman
7 and shall include a system of designated regional long term
8 care ombudsman programs. Each regional program shall be
9 designated by the State Long Term Care Ombudsman as a
10 subdivision of the Office and any representative of a regional
11 program shall be treated as a representative of the Office.

12 The Department, in consultation with the Office, shall
13 promulgate administrative rules in accordance with the
14 provisions of the Older Americans Act of 1965, as now or
15 hereafter amended, to establish the responsibilities of the
16 Department and the Office of State Long Term Care Ombudsman and
17 the designated regional Ombudsman programs. The administrative
18 rules shall include the responsibility of the Office and
19 designated regional programs to investigate and resolve
20 complaints made by or on behalf of residents of long term care
21 facilities, supportive living facilities, and assisted living
22 and shared housing establishments, and participants residing
23 in their own homes or community-based settings, including the
24 option to serve residents and participants under the age of 60,
25 relating to actions, inaction, or decisions of providers, or
26 their representatives, of such facilities and establishments,

1 of public agencies, or of social services agencies, which may
2 adversely affect the health, safety, welfare, or rights of such
3 residents and participants. The Office and designated regional
4 programs may represent all residents and participants, but are
5 not required by this Act to represent persons under 60 years of
6 age, except to the extent required by federal law. When
7 necessary and appropriate, representatives of the Office shall
8 refer complaints to the appropriate regulatory State agency.
9 The Department, in consultation with the Office, shall
10 cooperate with the Department of Human Services and other State
11 agencies in providing information and training to designated
12 regional long term care ombudsman programs about the
13 appropriate assessment and treatment (including information
14 about appropriate supportive services, treatment options, and
15 assessment of rehabilitation potential) of the participants
16 they serve.

17 The State Long Term Care Ombudsman and all other ombudsmen,
18 as defined in paragraph (3.1) of subsection (b) must submit to
19 background checks under the Health Care Worker Background Check
20 Act and receive training, as prescribed by the Illinois
21 Department on Aging, before visiting facilities, private
22 homes, or community-based settings. The training must include
23 information specific to assisted living establishments,
24 supportive living facilities, shared housing establishments,
25 private homes, and community-based settings and to the rights
26 of residents and participants guaranteed under the

1 corresponding Acts and administrative rules.

2 (c-5) Consumer Choice Information Reports. The Office
3 shall:

4 (1) In collaboration with the Attorney General, create
5 a Consumer Choice Information Report form to be completed
6 by all licensed long term care facilities to aid
7 Illinoisans and their families in making informed choices
8 about long term care. The Office shall create a Consumer
9 Choice Information Report for each type of licensed long
10 term care facility. The Office shall collaborate with the
11 Attorney General and the Department of Human Services to
12 create a Consumer Choice Information Report form for
13 facilities licensed under the ID/DD ~~MR/DD~~ Community Care
14 Act or the MC/DD Act.

15 (2) Develop a database of Consumer Choice Information
16 Reports completed by licensed long term care facilities
17 that includes information in the following consumer
18 categories:

19 (A) Medical Care, Services, and Treatment.

20 (B) Special Services and Amenities.

21 (C) Staffing.

22 (D) Facility Statistics and Resident Demographics.

23 (E) Ownership and Administration.

24 (F) Safety and Security.

25 (G) Meals and Nutrition.

26 (H) Rooms, Furnishings, and Equipment.

1 (I) Family, Volunteer, and Visitation Provisions.

2 (3) Make this information accessible to the public,
3 including on the Internet by means of a hyperlink labeled
4 "Resident's Right to Know" on the Office's World Wide Web
5 home page. Information about facilities licensed under the
6 ID/DD ~~MR/DD~~ Community Care Act or the MC/DD Act shall be
7 made accessible to the public by the Department of Human
8 Services, including on the Internet by means of a hyperlink
9 labeled "Resident's and Families' Right to Know" on the
10 Department of Human Services' "For Customers" website.

11 (4) Have the authority, with the Attorney General, to
12 verify that information provided by a facility is accurate.

13 (5) Request a new report from any licensed facility
14 whenever it deems necessary.

15 (6) Include in the Office's Consumer Choice
16 Information Report for each type of licensed long term care
17 facility additional information on each licensed long term
18 care facility in the State of Illinois, including
19 information regarding each facility's compliance with the
20 relevant State and federal statutes, rules, and standards;
21 customer satisfaction surveys; and information generated
22 from quality measures developed by the Centers for Medicare
23 and Medicaid Services.

24 (d) Access and visitation rights.

25 (1) In accordance with subparagraphs (A) and (E) of
26 paragraph (3) of subsection (c) of Section 1819 and

1 subparagraphs (A) and (E) of paragraph (3) of subsection
2 (c) of Section 1919 of the Social Security Act, as now or
3 hereafter amended (42 U.S.C. 1395i-3 (c)(3)(A) and (E) and
4 42 U.S.C. 1396r (c)(3)(A) and (E)), and Section 712 of the
5 Older Americans Act of 1965, as now or hereafter amended
6 (42 U.S.C. 3058f), a long term care facility, supportive
7 living facility, assisted living establishment, and shared
8 housing establishment must:

9 (i) permit immediate access to any resident,
10 regardless of age, by a designated ombudsman;

11 (ii) permit representatives of the Office, with
12 the permission of the resident's legal representative
13 or legal guardian, to examine a resident's clinical and
14 other records, regardless of the age of the resident,
15 and if a resident is unable to consent to such review,
16 and has no legal guardian, permit representatives of
17 the Office appropriate access, as defined by the
18 Department, in consultation with the Office, in
19 administrative rules, to the resident's records; and

20 (iii) permit a representative of the Program to
21 communicate privately and without restriction with any
22 participant who consents to the communication
23 regardless of the consent of, or withholding of consent
24 by, a legal guardian or an agent named in a power of
25 attorney executed by the participant.

26 (2) Each long term care facility, supportive living

1 facility, assisted living establishment, and shared
2 housing establishment shall display, in multiple,
3 conspicuous public places within the facility accessible
4 to both visitors and residents and in an easily readable
5 format, the address and phone number of the Office of the
6 Long Term Care Ombudsman, in a manner prescribed by the
7 Office.

8 (e) Immunity. An ombudsman or any representative of the
9 Office participating in the good faith performance of his or
10 her official duties shall have immunity from any liability
11 (civil, criminal or otherwise) in any proceedings (civil,
12 criminal or otherwise) brought as a consequence of the
13 performance of his official duties.

14 (f) Business offenses.

15 (1) No person shall:

16 (i) Intentionally prevent, interfere with, or
17 attempt to impede in any way any representative of the
18 Office in the performance of his official duties under
19 this Act and the Older Americans Act of 1965; or

20 (ii) Intentionally retaliate, discriminate
21 against, or effect reprisals against any long term care
22 facility resident or employee for contacting or
23 providing information to any representative of the
24 Office.

25 (2) A violation of this Section is a business offense,
26 punishable by a fine not to exceed \$501.

1 (3) The State Long Term Care Ombudsman shall notify the
2 State's Attorney of the county in which the long term care
3 facility, supportive living facility, or assisted living
4 or shared housing establishment is located, or the Attorney
5 General, of any violations of this Section.

6 (g) Confidentiality of records and identities. The
7 Department shall establish procedures for the disclosure by the
8 State Ombudsman or the regional ombudsmen entities of files
9 maintained by the program. The procedures shall provide that
10 the files and records may be disclosed only at the discretion
11 of the State Long Term Care Ombudsman or the person designated
12 by the State Ombudsman to disclose the files and records, and
13 the procedures shall prohibit the disclosure of the identity of
14 any complainant, resident, participant, witness, or employee
15 of a long term care provider unless:

16 (1) the complainant, resident, participant, witness,
17 or employee of a long term care provider or his or her
18 legal representative consents to the disclosure and the
19 consent is in writing;

20 (2) the complainant, resident, participant, witness,
21 or employee of a long term care provider gives consent
22 orally; and the consent is documented contemporaneously in
23 writing in accordance with such requirements as the
24 Department shall establish; or

25 (3) the disclosure is required by court order.

26 (h) Legal representation. The Attorney General shall

1 provide legal representation to any representative of the
2 Office against whom suit or other legal action is brought in
3 connection with the performance of the representative's
4 official duties, in accordance with the State Employee
5 Indemnification Act.

6 (i) Treatment by prayer and spiritual means. Nothing in
7 this Act shall be construed to authorize or require the medical
8 supervision, regulation or control of remedial care or
9 treatment of any resident in a long term care facility operated
10 exclusively by and for members or adherents of any church or
11 religious denomination the tenets and practices of which
12 include reliance solely upon spiritual means through prayer for
13 healing.

14 (j) The Long Term Care Ombudsman Fund is created as a
15 special fund in the State treasury to receive moneys for the
16 express purposes of this Section. All interest earned on moneys
17 in the fund shall be credited to the fund. Moneys contained in
18 the fund shall be used to support the purposes of this Section.

19 (k) Each Regional Ombudsman may, in accordance with rules
20 promulgated by the Office, establish a multi-disciplinary team
21 to act in an advisory role for the purpose of providing
22 professional knowledge and expertise in handling complex
23 abuse, neglect, and advocacy issues involving participants.
24 Each multi-disciplinary team may consist of one or more
25 volunteer representatives from any combination of at least 7
26 members from the following professions: banking or finance;

1 disability care; health care; pharmacology; law; law
2 enforcement; emergency responder; mental health care; clergy;
3 coroner or medical examiner; substance abuse; domestic
4 violence; sexual assault; or other related fields. To support
5 multi-disciplinary teams in this role, law enforcement
6 agencies and coroners or medical examiners shall supply records
7 as may be requested in particular cases. The Regional
8 Ombudsman, or his or her designee, of the area in which the
9 multi-disciplinary team is created shall be the facilitator of
10 the multi-disciplinary team.

11 (Source: P.A. 97-38, eff. 6-28-11; 98-380, eff. 8-16-13;
12 98-989, eff. 1-1-15.)

13 (20 ILCS 105/4.08)

14 Sec. 4.08. Rural and small town meals program. Subject to
15 appropriation, the Department may establish a program to ensure
16 the availability of congregate or home-delivered meals in
17 communities with populations of under 5,000 that are not
18 located within the large urban counties of Cook, DuPage, Kane,
19 Lake, or Will.

20 The Department may meet these requirements by entering into
21 agreements with Area Agencies on Aging or Department designees,
22 which shall in turn enter into grants or contractual agreements
23 with such local entities as restaurants, cafes, churches,
24 facilities licensed under the Nursing Home Care Act, the ID/DD
25 Community Care Act, the MC/DD Act, the Assisted Living and

1 Shared Housing Act, or the Hospital Licensing Act, facilities
2 certified by the Department of Healthcare and Family Services,
3 senior centers, or Older American Act designated nutrition
4 service providers.

5 First consideration shall be given to entities that can
6 cost effectively meet the needs of seniors in the community by
7 preparing the food locally.

8 In no instance shall funds provided pursuant to this
9 Section be used to replace funds allocated to a given area or
10 program as of the effective date of this amendatory Act of the
11 95th General Assembly.

12 The Department shall establish guidelines and standards by
13 administrative rule, which shall include submission of an
14 expenditure plan by the recipient of the funds.

15 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

16 Section 15. The Mental Health and Developmental
17 Disabilities Administrative Act is amended by changing Section
18 15 as follows:

19 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

20 Sec. 15. Before any person is released from a facility
21 operated by the State pursuant to an absolute discharge or a
22 conditional discharge from hospitalization under this Act, the
23 facility director of the facility in which such person is
24 hospitalized shall determine that such person is not currently

1 in need of hospitalization and:

2 (a) is able to live independently in the community; or

3 (b) requires further oversight and supervisory care
4 for which arrangements have been made with responsible
5 relatives or supervised residential program approved by
6 the Department; or

7 (c) requires further personal care or general
8 oversight as defined by the ID/DD Community Care Act, the
9 MC/DD Act, or the Specialized Mental Health Rehabilitation
10 Act of 2013, for which placement arrangements have been
11 made with a suitable family home or other licensed facility
12 approved by the Department under this Section; or

13 (d) requires community mental health services for
14 which arrangements have been made with a community mental
15 health provider in accordance with criteria, standards,
16 and procedures promulgated by rule.

17 Such determination shall be made in writing and shall
18 become a part of the facility record of such absolutely or
19 conditionally discharged person. When the determination
20 indicates that the condition of the person to be granted an
21 absolute discharge or a conditional discharge is described
22 under subparagraph (c) or (d) of this Section, the name and
23 address of the continuing care facility or home to which such
24 person is to be released shall be entered in the facility
25 record. Where a discharge from a mental health facility is made
26 under subparagraph (c), the Department shall assign the person

1 so discharged to an existing community based not-for-profit
2 agency for participation in day activities suitable to the
3 person's needs, such as but not limited to social and
4 vocational rehabilitation, and other recreational, educational
5 and financial activities unless the community based
6 not-for-profit agency is unqualified to accept such
7 assignment. Where the clientele of any not-for-profit agency
8 increases as a result of assignments under this amendatory Act
9 of 1977 by more than 3% over the prior year, the Department
10 shall fully reimburse such agency for the costs of providing
11 services to such persons in excess of such 3% increase. The
12 Department shall keep written records detailing how many
13 persons have been assigned to a community based not-for-profit
14 agency and how many persons were not so assigned because the
15 community based agency was unable to accept the assignments, in
16 accordance with criteria, standards, and procedures
17 promulgated by rule. Whenever a community based agency is found
18 to be unable to accept the assignments, the name of the agency
19 and the reason for the finding shall be included in the report.

20 Insofar as desirable in the interests of the former
21 recipient, the facility, program or home in which the
22 discharged person is to be placed shall be located in or near
23 the community in which the person resided prior to
24 hospitalization or in the community in which the person's
25 family or nearest next of kin presently reside. Placement of
26 the discharged person in facilities, programs or homes located

1 outside of this State shall not be made by the Department
2 unless there are no appropriate facilities, programs or homes
3 available within this State. Out-of-state placements shall be
4 subject to return of recipients so placed upon the availability
5 of facilities, programs or homes within this State to
6 accommodate these recipients, except where placement in a
7 contiguous state results in locating a recipient in a facility
8 or program closer to the recipient's home or family. If an
9 appropriate facility or program becomes available equal to or
10 closer to the recipient's home or family, the recipient shall
11 be returned to and placed at the appropriate facility or
12 program within this State.

13 To place any person who is under a program of the
14 Department at board in a suitable family home or in such other
15 facility or program as the Department may consider desirable.
16 The Department may place in licensed nursing homes, sheltered
17 care homes, or homes for the aged those persons whose
18 behavioral manifestations and medical and nursing care needs
19 are such as to be substantially indistinguishable from persons
20 already living in such facilities. Prior to any placement by
21 the Department under this Section, a determination shall be
22 made by the personnel of the Department, as to the capability
23 and suitability of such facility to adequately meet the needs
24 of the person to be discharged. When specialized programs are
25 necessary in order to enable persons in need of supervised
26 living to develop and improve in the community, the Department

1 shall place such persons only in specialized residential care
2 facilities which shall meet Department standards including
3 restricted admission policy, special staffing and programming
4 for social and vocational rehabilitation, in addition to the
5 requirements of the appropriate State licensing agency. The
6 Department shall not place any new person in a facility the
7 license of which has been revoked or not renewed on grounds of
8 inadequate programming, staffing, or medical or adjunctive
9 services, regardless of the pendency of an action for
10 administrative review regarding such revocation or failure to
11 renew. Before the Department may transfer any person to a
12 licensed nursing home, sheltered care home or home for the aged
13 or place any person in a specialized residential care facility
14 the Department shall notify the person to be transferred, or a
15 responsible relative of such person, in writing, at least 30
16 days before the proposed transfer, with respect to all the
17 relevant facts concerning such transfer, except in cases of
18 emergency when such notice is not required. If either the
19 person to be transferred or a responsible relative of such
20 person objects to such transfer, in writing to the Department,
21 at any time after receipt of notice and before the transfer,
22 the facility director of the facility in which the person was a
23 recipient shall immediately schedule a hearing at the facility
24 with the presence of the facility director, the person who
25 objected to such proposed transfer, and a psychiatrist who is
26 familiar with the record of the person to be transferred. Such

1 person to be transferred or a responsible relative may be
2 represented by such counsel or interested party as he may
3 appoint, who may present such testimony with respect to the
4 proposed transfer. Testimony presented at such hearing shall
5 become a part of the facility record of the
6 person-to-be-transferred. The record of testimony shall be
7 held in the person-to-be-transferred's record in the central
8 files of the facility. If such hearing is held a transfer may
9 only be implemented, if at all, in accordance with the results
10 of such hearing. Within 15 days after such hearing the facility
11 director shall deliver his findings based on the record of the
12 case and the testimony presented at the hearing, by registered
13 or certified mail, to the parties to such hearing. The findings
14 of the facility director shall be deemed a final administrative
15 decision of the Department. For purposes of this Section, "case
16 of emergency" means those instances in which the health of the
17 person to be transferred is imperiled and the most appropriate
18 mental health care or medical care is available at a licensed
19 nursing home, sheltered care home or home for the aged or a
20 specialized residential care facility.

21 Prior to placement of any person in a facility under this
22 Section the Department shall ensure that an appropriate
23 training plan for staff is provided by the facility. Said
24 training may include instruction and demonstration by
25 Department personnel qualified in the area of mental illness or
26 intellectual disabilities, as applicable to the person to be

1 placed. Training may be given both at the facility from which
2 the recipient is transferred and at the facility receiving the
3 recipient, and may be available on a continuing basis
4 subsequent to placement. In a facility providing services to
5 former Department recipients, training shall be available as
6 necessary for facility staff. Such training will be on a
7 continuing basis as the needs of the facility and recipients
8 change and further training is required.

9 The Department shall not place any person in a facility
10 which does not have appropriately trained staff in sufficient
11 numbers to accommodate the recipient population already at the
12 facility. As a condition of further or future placements of
13 persons, the Department shall require the employment of
14 additional trained staff members at the facility where said
15 persons are to be placed. The Secretary, or his or her
16 designate, shall establish written guidelines for placement of
17 persons in facilities under this Act. The Department shall keep
18 written records detailing which facilities have been
19 determined to have staff who have been appropriately trained by
20 the Department and all training which it has provided or
21 required under this Section.

22 Bills for the support for a person boarded out shall be
23 payable monthly out of the proper maintenance funds and shall
24 be audited as any other accounts of the Department. If a person
25 is placed in a facility or program outside the Department, the
26 Department may pay the actual costs of residence, treatment or

1 maintenance in such facility and may collect such actual costs
2 or a portion thereof from the recipient or the estate of a
3 person placed in accordance with this Section.

4 Other than those placed in a family home the Department
5 shall cause all persons who are placed in a facility, as
6 defined by the ID/DD Community Care Act, the MC/DD Act, or the
7 Specialized Mental Health Rehabilitation Act of 2013, or in
8 designated community living situations or programs, to be
9 visited at least once during the first month following
10 placement, and once every month thereafter for the first year
11 following placement when indicated, but at least quarterly.
12 After the first year, the Department shall determine at what
13 point the appropriate licensing entity for the facility or
14 designated community living situation or program will assume
15 the responsibility of ensuring that appropriate services are
16 being provided to the resident. Once that responsibility is
17 assumed, the Department may discontinue such visits. If a long
18 term care facility has periodic care plan conferences, the
19 visitor may participate in those conferences, if such
20 participation is approved by the resident or the resident's
21 guardian. Visits shall be made by qualified and trained
22 Department personnel, or their designee, in the area of mental
23 health or developmental disabilities applicable to the person
24 visited, and shall be made on a more frequent basis when
25 indicated. The Department may not use as designee any personnel
26 connected with or responsible to the representatives of any

1 facility in which persons who have been transferred under this
2 Section are placed. In the course of such visit there shall be
3 consideration of the following areas, but not limited thereto:
4 effects of transfer on physical and mental health of the
5 person, sufficiency of nursing care and medical coverage
6 required by the person, sufficiency of staff personnel and
7 ability to provide basic care for the person, social,
8 recreational and programmatic activities available for the
9 person, and other appropriate aspects of the person's
10 environment.

11 A report containing the above observations shall be made to
12 the Department, to the licensing agency, and to any other
13 appropriate agency subsequent to each visitation. The report
14 shall contain recommendations to improve the care and treatment
15 of the resident, as necessary, which shall be reviewed by the
16 facility's interdisciplinary team and the resident or the
17 resident's legal guardian.

18 Upon the complaint of any person placed in accordance with
19 this Section or any responsible citizen or upon discovery that
20 such person has been abused, neglected, or improperly cared
21 for, or that the placement does not provide the type of care
22 required by the recipient's current condition, the Department
23 immediately shall investigate, and determine if the
24 well-being, health, care, or safety of any person is affected
25 by any of the above occurrences, and if any one of the above
26 occurrences is verified, the Department shall remove such

1 person at once to a facility of the Department or to another
2 facility outside the Department, provided such person's needs
3 can be met at said facility. The Department may also provide
4 any person placed in accordance with this Section who is
5 without available funds, and who is permitted to engage in
6 employment outside the facility, such sums for the
7 transportation, and other expenses as may be needed by him
8 until he receives his wages for such employment.

9 The Department shall promulgate rules and regulations
10 governing the purchase of care for persons who are wards of or
11 who are receiving services from the Department. Such rules and
12 regulations shall apply to all monies expended by any agency of
13 the State of Illinois for services rendered by any person,
14 corporate entity, agency, governmental agency or political
15 subdivision whether public or private outside of the Department
16 whether payment is made through a contractual, per-diem or
17 other arrangement. No funds shall be paid to any person,
18 corporation, agency, governmental entity or political
19 subdivision without compliance with such rules and
20 regulations.

21 The rules and regulations governing purchase of care shall
22 describe categories and types of service deemed appropriate for
23 purchase by the Department.

24 Any provider of services under this Act may elect to
25 receive payment for those services, and the Department is
26 authorized to arrange for that payment, by means of direct

1 deposit transmittals to the service provider's account
2 maintained at a bank, savings and loan association, or other
3 financial institution. The financial institution shall be
4 approved by the Department, and the deposits shall be in
5 accordance with rules and regulations adopted by the
6 Department.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-104, eff. 7-22-13.)

9 Section 20. The Department of Public Health Powers and
10 Duties Law of the Civil Administrative Code of Illinois is
11 amended by changing Sections 2310-550, 2310-560, 2310-565, and
12 2310-625 as follows:

13 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

14 Sec. 2310-550. Long-term care facilities. The Department
15 may perform, in all long-term care facilities as defined in the
16 Nursing Home Care Act, all facilities as defined in the
17 Specialized Mental Health Rehabilitation Act of 2013, ~~and~~ all
18 facilities as defined in the ID/DD Community Care Act, and all
19 facilities as defined in the MC/DD Act, all inspection,
20 evaluation, certification, and inspection of care duties that
21 the federal government may require the State of Illinois to
22 perform or have performed as a condition of participation in
23 any programs under Title XVIII or Title XIX of the federal
24 Social Security Act.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

4 Sec. 2310-560. Advisory committees concerning construction
5 of facilities.

6 (a) The Director shall appoint an advisory committee. The
7 committee shall be established by the Department by rule. The
8 Director and the Department shall consult with the advisory
9 committee concerning the application of building codes and
10 Department rules related to those building codes to facilities
11 under the Ambulatory Surgical Treatment Center Act, the Nursing
12 Home Care Act, the Specialized Mental Health Rehabilitation Act
13 of 2013, ~~and~~ the ID/DD Community Care Act, and the MC/DD Act.

14 (b) The Director shall appoint an advisory committee to
15 advise the Department and to conduct informal dispute
16 resolution concerning the application of building codes for new
17 and existing construction and related Department rules and
18 standards under the Hospital Licensing Act, including without
19 limitation rules and standards for (i) design and construction,
20 (ii) engineering and maintenance of the physical plant, site,
21 equipment, and systems (heating, cooling, electrical,
22 ventilation, plumbing, water, sewer, and solid waste
23 disposal), and (iii) fire and safety. The advisory committee
24 shall be composed of all of the following members:

25 (1) The chairperson or an elected representative from

1 the Hospital Licensing Board under the Hospital Licensing
2 Act.

3 (2) Two health care architects with a minimum of 10
4 years of experience in institutional design and building
5 code analysis.

6 (3) Two engineering professionals (one mechanical and
7 one electrical) with a minimum of 10 years of experience in
8 institutional design and building code analysis.

9 (4) One commercial interior design professional with a
10 minimum of 10 years of experience.

11 (5) Two representatives from provider associations.

12 (6) The Director or his or her designee, who shall
13 serve as the committee moderator.

14 Appointments shall be made with the concurrence of the
15 Hospital Licensing Board. The committee shall submit
16 recommendations concerning the application of building codes
17 and related Department rules and standards to the Hospital
18 Licensing Board for review and comment prior to submission to
19 the Department. The committee shall submit recommendations
20 concerning informal dispute resolution to the Director. The
21 Department shall provide per diem and travel expenses to the
22 committee members.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
24 eff. 7-13-12; 98-104, eff. 7-22-13.)

25 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

1 Sec. 2310-565. Facility construction training program. The
2 Department shall conduct, at least annually, a joint in-service
3 training program for architects, engineers, interior
4 designers, and other persons involved in the construction of a
5 facility under the Ambulatory Surgical Treatment Center Act,
6 the Nursing Home Care Act, the Specialized Mental Health
7 Rehabilitation Act of 2013, the ID/DD Community Care Act, the
8 MC/DD Act, or the Hospital Licensing Act on problems and issues
9 relating to the construction of facilities under any of those
10 Acts.

11 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
12 eff. 7-13-12; 98-104, eff. 7-22-13.)

13 (20 ILCS 2310/2310-625)

14 Sec. 2310-625. Emergency Powers.

15 (a) Upon proclamation of a disaster by the Governor, as
16 provided for in the Illinois Emergency Management Agency Act,
17 the Director of Public Health shall have the following powers,
18 which shall be exercised only in coordination with the Illinois
19 Emergency Management Agency and the Department of Financial and
20 Professional Regulation:

21 (1) The power to suspend the requirements for temporary
22 or permanent licensure or certification of persons who are
23 licensed or certified in another state and are working
24 under the direction of the Illinois Emergency Management
25 Agency and the Illinois Department of Public Health

1 pursuant to the declared disaster.

2 (2) The power to modify the scope of practice
3 restrictions under the Emergency Medical Services (EMS)
4 Systems Act for any persons who are licensed under that Act
5 for any person working under the direction of the Illinois
6 Emergency Management Agency and the Illinois Department of
7 Public Health pursuant to the declared disaster.

8 (3) The power to modify the scope of practice
9 restrictions under the Nursing Home Care Act, the
10 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
11 the ID/DD Community Care Act, or the MC/DD Act for
12 Certified Nursing Assistants for any person working under
13 the direction of the Illinois Emergency Management Agency
14 and the Illinois Department of Public Health pursuant to
15 the declared disaster.

16 (b) Persons exempt from licensure or certification under
17 paragraph (1) of subsection (a) and persons operating under
18 modified scope of practice provisions under paragraph (2) of
19 subsection (a) and paragraph (3) of subsection (a) shall be
20 exempt from licensure or certification or subject to modified
21 scope of practice only until the declared disaster has ended as
22 provided by law. For purposes of this Section, persons working
23 under the direction of an emergency services and disaster
24 agency accredited by the Illinois Emergency Management Agency
25 and a local public health department, pursuant to a declared
26 disaster, shall be deemed to be working under the direction of

1 the Illinois Emergency Management Agency and the Department of
2 Public Health.

3 (c) The Director shall exercise these powers by way of
4 proclamation.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13.)

7 Section 25. The Disabilities Services Act of 2003 is
8 amended by changing Section 52 as follows:

9 (20 ILCS 2407/52)

10 Sec. 52. Applicability; definitions. In accordance with
11 Section 6071 of the Deficit Reduction Act of 2005 (P.L.
12 109-171), as used in this Article:

13 "Departments". The term "Departments" means for the
14 purposes of this Act, the Department of Human Services, the
15 Department on Aging, Department of Healthcare and Family
16 Services and Department of Public Health, unless otherwise
17 noted.

18 "Home and community-based long-term care services". The
19 term "home and community-based long-term care services" means,
20 with respect to the State Medicaid program, a service aid, or
21 benefit, home and community-based services, including but not
22 limited to home health and personal care services, that are
23 provided to a person with a disability, and are voluntarily
24 accepted, as part of his or her long-term care that: (i) is

1 provided under the State's qualified home and community-based
2 program or that could be provided under such a program but is
3 otherwise provided under the Medicaid program; (ii) is
4 delivered in a qualified residence; and (iii) is necessary for
5 the person with a disability to live in the community.

6 "ID/DD community care facility". The term "ID/DD community
7 care facility", for the purposes of this Article, means a
8 skilled nursing or intermediate long-term care facility
9 subject to licensure by the Department of Public Health under
10 the ID/DD Community Care Act or the MC/DD Act, an intermediate
11 care facility for the developmentally disabled (ICF-DDs), and a
12 State-operated developmental center or mental health center,
13 whether publicly or privately owned.

14 "Money Follows the Person" Demonstration. Enacted by the
15 Deficit Reduction Act of 2005, the Money Follows the Person
16 (MFP) Rebalancing Demonstration is part of a comprehensive,
17 coordinated strategy to assist states, in collaboration with
18 stakeholders, to make widespread changes to their long-term
19 care support systems. This initiative will assist states in
20 their efforts to reduce their reliance on institutional care
21 while developing community-based long-term care opportunities,
22 enabling the elderly and people with disabilities to fully
23 participate in their communities.

24 "Public funds" mean any funds appropriated by the General
25 Assembly to the Departments of Human Services, on Aging, of
26 Healthcare and Family Services and of Public Health for

1 settings and services as defined in this Article.

2 "Qualified residence". The term "qualified residence"
3 means, with respect to an eligible individual: (i) a home owned
4 or leased by the individual or the individual's authorized
5 representative (as defined by P.L. 109-171); (ii) an apartment
6 with an individual lease, with lockable access and egress, and
7 which includes living, sleeping, bathing, and cooking areas
8 over which the individual or the individual's family has domain
9 and control; or (iii) a residence, in a community-based
10 residential setting, in which no more than 4 unrelated
11 individuals reside. Where qualified residences are not
12 sufficient to meet the demand of eligible individuals,
13 time-limited exceptions to this definition may be developed
14 through administrative rule.

15 "Self-directed services". The term "self-directed
16 services" means, with respect to home and community-based
17 long-term services for an eligible individual, those services
18 for the individual that are planned and purchased under the
19 direction and control of the individual or the individual's
20 authorized representative, including the amount, duration,
21 scope, provider, and location of such services, under the State
22 Medicaid program consistent with the following requirements:

23 (a) Assessment: there is an assessment of the needs,
24 capabilities, and preference of the individual with
25 respect to such services.

26 (b) Individual service care or treatment plan: based on

1 the assessment, there is development jointly with such
2 individual or individual's authorized representative, a
3 plan for such services for the individual that (i)
4 specifies those services, if any, that the individual or
5 the individual's authorized representative would be
6 responsible for directing; (ii) identifies the methods by
7 which the individual or the individual's authorized
8 representative or an agency designated by an individual or
9 representative will select, manage, and dismiss providers
10 of such services.

11 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

12 Section 27. The Criminal Identification Act is amended by
13 changing Section 7.5 as follows:

14 (20 ILCS 2630/7.5)

15 Sec. 7.5. Notification of outstanding warrant. If the
16 existence of an outstanding arrest warrant is identified by the
17 Department of State Police in connection with the criminal
18 history background checks conducted pursuant to subsection (b)
19 of Section 2-201.5 of the Nursing Home Care Act, ~~and~~ Section
20 2-201.5 of the ID/DD ~~MR/DD~~ Community Care Act, Section 2-201.5
21 of the MC/DD Act, or subsection (d) of Section 6.09 of the
22 Hospital Licensing Act, the Department shall notify the
23 jurisdiction issuing the warrant of the following:

24 (1) Existence of the warrant.

1 (2) The name, address, and telephone number of the
2 licensed long term care facility in which the wanted person
3 resides.

4 Local issuing jurisdictions shall be aware that nursing
5 facilities have residents who may be fragile or vulnerable or
6 who may have a mental illness. When serving a warrant, law
7 enforcement shall make every attempt to mitigate the adverse
8 impact on other facility residents.

9 (Source: P.A. 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

10 Section 30. The Illinois Finance Authority Act is amended
11 by changing Section 801-10 as follows:

12 (20 ILCS 3501/801-10)

13 Sec. 801-10. Definitions. The following terms, whenever
14 used or referred to in this Act, shall have the following
15 meanings, except in such instances where the context may
16 clearly indicate otherwise:

17 (a) The term "Authority" means the Illinois Finance
18 Authority created by this Act.

19 (b) The term "project" means an industrial project,
20 conservation project, housing project, public purpose project,
21 higher education project, health facility project, cultural
22 institution project, municipal bond program project,
23 agricultural facility or agribusiness, and "project" may
24 include any combination of one or more of the foregoing

1 undertaken jointly by any person with one or more other
2 persons.

3 (c) The term "public purpose project" means any project or
4 facility, including without limitation land, buildings,
5 structures, machinery, equipment and all other real and
6 personal property, which is authorized or required by law to be
7 acquired, constructed, improved, rehabilitated, reconstructed,
8 replaced or maintained by any unit of government or any other
9 lawful public purpose which is authorized or required by law to
10 be undertaken by any unit of government.

11 (d) The term "industrial project" means the acquisition,
12 construction, refurbishment, creation, development or
13 redevelopment of any facility, equipment, machinery, real
14 property or personal property for use by any instrumentality of
15 the State or its political subdivisions, for use by any person
16 or institution, public or private, for profit or not for
17 profit, or for use in any trade or business, including, but not
18 limited to, any industrial, manufacturing or commercial
19 enterprise that is located within or outside the State,
20 provided that, with respect to a project involving property
21 located outside the State, the property must be owned,
22 operated, leased or managed by an entity located within the
23 State or an entity affiliated with an entity located within the
24 State, and which is (1) a capital project, including, but not
25 limited to: (i) land and any rights therein, one or more
26 buildings, structures or other improvements, machinery and

1 equipment, whether now existing or hereafter acquired, and
2 whether or not located on the same site or sites; (ii) all
3 appurtenances and facilities incidental to the foregoing,
4 including, but not limited to, utilities, access roads,
5 railroad sidings, track, docking and similar facilities,
6 parking facilities, dockage, wharfage, railroad roadbed,
7 track, trestle, depot, terminal, switching and signaling or
8 related equipment, site preparation and landscaping; and (iii)
9 all non-capital costs and expenses relating thereto or (2) any
10 addition to, renovation, rehabilitation or improvement of a
11 capital project or (3) any activity or undertaking within or
12 outside the State, provided that, with respect to a project
13 involving property located outside the State, the property must
14 be owned, operated, leased or managed by an entity located
15 within the State or an entity affiliated with an entity located
16 within the State, which the Authority determines will aid,
17 assist or encourage economic growth, development or
18 redevelopment within the State or any area thereof, will
19 promote the expansion, retention or diversification of
20 employment opportunities within the State or any area thereof
21 or will aid in stabilizing or developing any industry or
22 economic sector of the State economy. The term "industrial
23 project" also means the production of motion pictures.

24 (e) The term "bond" or "bonds" shall include bonds, notes
25 (including bond, grant or revenue anticipation notes),
26 certificates and/or other evidences of indebtedness

1 representing an obligation to pay money, including refunding
2 bonds.

3 (f) The terms "lease agreement" and "loan agreement" shall
4 mean: (i) an agreement whereby a project acquired by the
5 Authority by purchase, gift or lease is leased to any person,
6 corporation or unit of local government which will use or cause
7 the project to be used as a project as heretofore defined upon
8 terms providing for lease rental payments at least sufficient
9 to pay when due all principal of, interest and premium, if any,
10 on any bonds of the Authority issued with respect to such
11 project, providing for the maintenance, insuring and operation
12 of the project on terms satisfactory to the Authority,
13 providing for disposition of the project upon termination of
14 the lease term, including purchase options or abandonment of
15 the premises, and such other terms as may be deemed desirable
16 by the Authority, or (ii) any agreement pursuant to which the
17 Authority agrees to loan the proceeds of its bonds issued with
18 respect to a project or other funds of the Authority to any
19 person which will use or cause the project to be used as a
20 project as heretofore defined upon terms providing for loan
21 repayment installments at least sufficient to pay when due all
22 principal of, interest and premium, if any, on any bonds of the
23 Authority, if any, issued with respect to the project, and
24 providing for maintenance, insurance and other matters as may
25 be deemed desirable by the Authority.

26 (g) The term "financial aid" means the expenditure of

1 Authority funds or funds provided by the Authority through the
2 issuance of its bonds, notes or other evidences of indebtedness
3 or from other sources for the development, construction,
4 acquisition or improvement of a project.

5 (h) The term "person" means an individual, corporation,
6 unit of government, business trust, estate, trust, partnership
7 or association, 2 or more persons having a joint or common
8 interest, or any other legal entity.

9 (i) The term "unit of government" means the federal
10 government, the State or unit of local government, a school
11 district, or any agency or instrumentality, office, officer,
12 department, division, bureau, commission, college or
13 university thereof.

14 (j) The term "health facility" means: (a) any public or
15 private institution, place, building, or agency required to be
16 licensed under the Hospital Licensing Act; (b) any public or
17 private institution, place, building, or agency required to be
18 licensed under the Nursing Home Care Act, the Specialized
19 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
20 Community Care Act, or the MC/DD Act; (c) any public or
21 licensed private hospital as defined in the Mental Health and
22 Developmental Disabilities Code; (d) any such facility
23 exempted from such licensure when the Director of Public Health
24 attests that such exempted facility meets the statutory
25 definition of a facility subject to licensure; (e) any other
26 public or private health service institution, place, building,

1 or agency which the Director of Public Health attests is
2 subject to certification by the Secretary, U.S. Department of
3 Health and Human Services under the Social Security Act, as now
4 or hereafter amended, or which the Director of Public Health
5 attests is subject to standard-setting by a recognized public
6 or voluntary accrediting or standard-setting agency; (f) any
7 public or private institution, place, building or agency
8 engaged in providing one or more supporting services to a
9 health facility; (g) any public or private institution, place,
10 building or agency engaged in providing training in the healing
11 arts, including, but not limited to, schools of medicine,
12 dentistry, osteopathy, optometry, podiatry, pharmacy or
13 nursing, schools for the training of x-ray, laboratory or other
14 health care technicians and schools for the training of
15 para-professionals in the health care field; (h) any public or
16 private congregate, life or extended care or elderly housing
17 facility or any public or private home for the aged or infirm,
18 including, without limitation, any Facility as defined in the
19 Life Care Facilities Act; (i) any public or private mental,
20 emotional or physical rehabilitation facility or any public or
21 private educational, counseling, or rehabilitation facility or
22 home, for those persons with a developmental disability, those
23 who are physically ill or disabled, the emotionally disturbed,
24 those persons with a mental illness or persons with learning or
25 similar disabilities or problems; (j) any public or private
26 alcohol, drug or substance abuse diagnosis, counseling

1 treatment or rehabilitation facility, (k) any public or private
2 institution, place, building or agency licensed by the
3 Department of Children and Family Services or which is not so
4 licensed but which the Director of Children and Family Services
5 attests provides child care, child welfare or other services of
6 the type provided by facilities subject to such licensure; (l)
7 any public or private adoption agency or facility; and (m) any
8 public or private blood bank or blood center. "Health facility"
9 also means a public or private structure or structures suitable
10 primarily for use as a laboratory, laundry, nurses or interns
11 residence or other housing or hotel facility used in whole or
12 in part for staff, employees or students and their families,
13 patients or relatives of patients admitted for treatment or
14 care in a health facility, or persons conducting business with
15 a health facility, physician's facility, surgicenter,
16 administration building, research facility, maintenance,
17 storage or utility facility and all structures or facilities
18 related to any of the foregoing or required or useful for the
19 operation of a health facility, including parking or other
20 facilities or other supporting service structures required or
21 useful for the orderly conduct of such health facility. "Health
22 facility" also means, with respect to a project located outside
23 the State, any public or private institution, place, building,
24 or agency which provides services similar to those described
25 above, provided that such project is owned, operated, leased or
26 managed by a participating health institution located within

1 the State, or a participating health institution affiliated
2 with an entity located within the State.

3 (k) The term "participating health institution" means (i) a
4 private corporation or association or (ii) a public entity of
5 this State, in either case authorized by the laws of this State
6 or the applicable state to provide or operate a health facility
7 as defined in this Act and which, pursuant to the provisions of
8 this Act, undertakes the financing, construction or
9 acquisition of a project or undertakes the refunding or
10 refinancing of obligations, loans, indebtedness or advances as
11 provided in this Act.

12 (l) The term "health facility project", means a specific
13 health facility work or improvement to be financed or
14 refinanced (including without limitation through reimbursement
15 of prior expenditures), acquired, constructed, enlarged,
16 remodeled, renovated, improved, furnished, or equipped, with
17 funds provided in whole or in part hereunder, any accounts
18 receivable, working capital, liability or insurance cost or
19 operating expense financing or refinancing program of a health
20 facility with or involving funds provided in whole or in part
21 hereunder, or any combination thereof.

22 (m) The term "bond resolution" means the resolution or
23 resolutions authorizing the issuance of, or providing terms and
24 conditions related to, bonds issued under this Act and
25 includes, where appropriate, any trust agreement, trust
26 indenture, indenture of mortgage or deed of trust providing

1 terms and conditions for such bonds.

2 (n) The term "property" means any real, personal or mixed
3 property, whether tangible or intangible, or any interest
4 therein, including, without limitation, any real estate,
5 leasehold interests, appurtenances, buildings, easements,
6 equipment, furnishings, furniture, improvements, machinery,
7 rights of way, structures, accounts, contract rights or any
8 interest therein.

9 (o) The term "revenues" means, with respect to any project,
10 the rents, fees, charges, interest, principal repayments,
11 collections and other income or profit derived therefrom.

12 (p) The term "higher education project" means, in the case
13 of a private institution of higher education, an educational
14 facility to be acquired, constructed, enlarged, remodeled,
15 renovated, improved, furnished, or equipped, or any
16 combination thereof.

17 (q) The term "cultural institution project" means, in the
18 case of a cultural institution, a cultural facility to be
19 acquired, constructed, enlarged, remodeled, renovated,
20 improved, furnished, or equipped, or any combination thereof.

21 (r) The term "educational facility" means any property
22 located within the State, or any property located outside the
23 State, provided that, if the property is located outside the
24 State, it must be owned, operated, leased or managed by an
25 entity located within the State or an entity affiliated with an
26 entity located within the State, in each case constructed or

1 acquired before or after the effective date of this Act, which
2 is or will be, in whole or in part, suitable for the
3 instruction, feeding, recreation or housing of students, the
4 conducting of research or other work of a private institution
5 of higher education, the use by a private institution of higher
6 education in connection with any educational, research or
7 related or incidental activities then being or to be conducted
8 by it, or any combination of the foregoing, including, without
9 limitation, any such property suitable for use as or in
10 connection with any one or more of the following: an academic
11 facility, administrative facility, agricultural facility,
12 assembly hall, athletic facility, auditorium, boating
13 facility, campus, communication facility, computer facility,
14 continuing education facility, classroom, dining hall,
15 dormitory, exhibition hall, fire fighting facility, fire
16 prevention facility, food service and preparation facility,
17 gymnasium, greenhouse, health care facility, hospital,
18 housing, instructional facility, laboratory, library,
19 maintenance facility, medical facility, museum, offices,
20 parking area, physical education facility, recreational
21 facility, research facility, stadium, storage facility,
22 student union, study facility, theatre or utility.

23 (s) The term "cultural facility" means any property located
24 within the State, or any property located outside the State,
25 provided that, if the property is located outside the State, it
26 must be owned, operated, leased or managed by an entity located

1 within the State or an entity affiliated with an entity located
2 within the State, in each case constructed or acquired before
3 or after the effective date of this Act, which is or will be,
4 in whole or in part, suitable for the particular purposes or
5 needs of a cultural institution, including, without
6 limitation, any such property suitable for use as or in
7 connection with any one or more of the following: an
8 administrative facility, aquarium, assembly hall, auditorium,
9 botanical garden, exhibition hall, gallery, greenhouse,
10 library, museum, scientific laboratory, theater or zoological
11 facility, and shall also include, without limitation, books,
12 works of art or music, animal, plant or aquatic life or other
13 items for display, exhibition or performance. The term
14 "cultural facility" includes buildings on the National
15 Register of Historic Places which are owned or operated by
16 nonprofit entities.

17 (t) "Private institution of higher education" means a
18 not-for-profit educational institution which is not owned by
19 the State or any political subdivision, agency,
20 instrumentality, district or municipality thereof, which is
21 authorized by law to provide a program of education beyond the
22 high school level and which:

23 (1) Admits as regular students only individuals having
24 a certificate of graduation from a high school, or the
25 recognized equivalent of such a certificate;

26 (2) Provides an educational program for which it awards

1 a bachelor's degree, or provides an educational program,
2 admission into which is conditioned upon the prior
3 attainment of a bachelor's degree or its equivalent, for
4 which it awards a postgraduate degree, or provides not less
5 than a 2-year program which is acceptable for full credit
6 toward such a degree, or offers a 2-year program in
7 engineering, mathematics, or the physical or biological
8 sciences which is designed to prepare the student to work
9 as a technician and at a semiprofessional level in
10 engineering, scientific, or other technological fields
11 which require the understanding and application of basic
12 engineering, scientific, or mathematical principles or
13 knowledge;

14 (3) Is accredited by a nationally recognized
15 accrediting agency or association or, if not so accredited,
16 is an institution whose credits are accepted, on transfer,
17 by not less than 3 institutions which are so accredited,
18 for credit on the same basis as if transferred from an
19 institution so accredited, and holds an unrevoked
20 certificate of approval under the Private College Act from
21 the Board of Higher Education, or is qualified as a "degree
22 granting institution" under the Academic Degree Act; and

23 (4) Does not discriminate in the admission of students
24 on the basis of race or color. "Private institution of
25 higher education" also includes any "academic
26 institution".

1 (u) The term "academic institution" means any
2 not-for-profit institution which is not owned by the State or
3 any political subdivision, agency, instrumentality, district
4 or municipality thereof, which institution engages in, or
5 facilitates academic, scientific, educational or professional
6 research or learning in a field or fields of study taught at a
7 private institution of higher education. Academic institutions
8 include, without limitation, libraries, archives, academic,
9 scientific, educational or professional societies,
10 institutions, associations or foundations having such
11 purposes.

12 (v) The term "cultural institution" means any
13 not-for-profit institution which is not owned by the State or
14 any political subdivision, agency, instrumentality, district
15 or municipality thereof, which institution engages in the
16 cultural, intellectual, scientific, educational or artistic
17 enrichment of the people of the State. Cultural institutions
18 include, without limitation, aquaria, botanical societies,
19 historical societies, libraries, museums, performing arts
20 associations or societies, scientific societies and zoological
21 societies.

22 (w) The term "affiliate" means, with respect to financing
23 of an agricultural facility or an agribusiness, any lender, any
24 person, firm or corporation controlled by, or under common
25 control with, such lender, and any person, firm or corporation
26 controlling such lender.

1 (x) The term "agricultural facility" means land, any
2 building or other improvement thereon or thereto, and any
3 personal properties deemed necessary or suitable for use,
4 whether or not now in existence, in farming, ranching, the
5 production of agricultural commodities (including, without
6 limitation, the products of aquaculture, hydroponics and
7 silviculture) or the treating, processing or storing of such
8 agricultural commodities when such activities are customarily
9 engaged in by farmers as a part of farming and which land,
10 building, improvement or personal property is located within
11 the State, or is located outside the State, provided that, if
12 such property is located outside the State, it must be owned,
13 operated, leased, or managed by an entity located within the
14 State or an entity affiliated with an entity located within the
15 State.

16 (y) The term "lender" with respect to financing of an
17 agricultural facility or an agribusiness, means any federal or
18 State chartered bank, Federal Land Bank, Production Credit
19 Association, Bank for Cooperatives, federal or State chartered
20 savings and loan association or building and loan association,
21 Small Business Investment Company or any other institution
22 qualified within this State to originate and service loans,
23 including, but without limitation to, insurance companies,
24 credit unions and mortgage loan companies. "Lender" also means
25 a wholly owned subsidiary of a manufacturer, seller or
26 distributor of goods or services that makes loans to businesses

1 or individuals, commonly known as a "captive finance company".

2 (z) The term "agribusiness" means any sole proprietorship,
3 limited partnership, co-partnership, joint venture,
4 corporation or cooperative which operates or will operate a
5 facility located within the State or outside the State,
6 provided that, if any facility is located outside the State, it
7 must be owned, operated, leased, or managed by an entity
8 located within the State or an entity affiliated with an entity
9 located within the State, that is related to the processing of
10 agricultural commodities (including, without limitation, the
11 products of aquaculture, hydroponics and silviculture) or the
12 manufacturing, production or construction of agricultural
13 buildings, structures, equipment, implements, and supplies, or
14 any other facilities or processes used in agricultural
15 production. Agribusiness includes but is not limited to the
16 following:

17 (1) grain handling and processing, including grain
18 storage, drying, treatment, conditioning, mailing and
19 packaging;

20 (2) seed and feed grain development and processing;

21 (3) fruit and vegetable processing, including
22 preparation, canning and packaging;

23 (4) processing of livestock and livestock products,
24 dairy products, poultry and poultry products, fish or
25 apiarian products, including slaughter, shearing,
26 collecting, preparation, canning and packaging;

1 (5) fertilizer and agricultural chemical
2 manufacturing, processing, application and supplying;

3 (6) farm machinery, equipment and implement
4 manufacturing and supplying;

5 (7) manufacturing and supplying of agricultural
6 commodity processing machinery and equipment, including
7 machinery and equipment used in slaughter, treatment,
8 handling, collecting, preparation, canning or packaging of
9 agricultural commodities;

10 (8) farm building and farm structure manufacturing,
11 construction and supplying;

12 (9) construction, manufacturing, implementation,
13 supplying or servicing of irrigation, drainage and soil and
14 water conservation devices or equipment;

15 (10) fuel processing and development facilities that
16 produce fuel from agricultural commodities or byproducts;

17 (11) facilities and equipment for processing and
18 packaging agricultural commodities specifically for
19 export;

20 (12) facilities and equipment for forestry product
21 processing and supplying, including sawmilling operations,
22 wood chip operations, timber harvesting operations, and
23 manufacturing of prefabricated buildings, paper, furniture
24 or other goods from forestry products;

25 (13) facilities and equipment for research and
26 development of products, processes and equipment for the

1 production, processing, preparation or packaging of
2 agricultural commodities and byproducts.

3 (aa) The term "asset" with respect to financing of any
4 agricultural facility or any agribusiness, means, but is not
5 limited to the following: cash crops or feed on hand; livestock
6 held for sale; breeding stock; marketable bonds and securities;
7 securities not readily marketable; accounts receivable; notes
8 receivable; cash invested in growing crops; net cash value of
9 life insurance; machinery and equipment; cars and trucks; farm
10 and other real estate including life estates and personal
11 residence; value of beneficial interests in trusts; government
12 payments or grants; and any other assets.

13 (bb) The term "liability" with respect to financing of any
14 agricultural facility or any agribusiness shall include, but
15 not be limited to the following: accounts payable; notes or
16 other indebtedness owed to any source; taxes; rent; amounts
17 owed on real estate contracts or real estate mortgages;
18 judgments; accrued interest payable; and any other liability.

19 (cc) The term "Predecessor Authorities" means those
20 authorities as described in Section 845-75.

21 (dd) The term "housing project" means a specific work or
22 improvement located within the State or outside the State and
23 undertaken to provide residential dwelling accommodations,
24 including the acquisition, construction or rehabilitation of
25 lands, buildings and community facilities and in connection
26 therewith to provide nonhousing facilities which are part of

1 the housing project, including land, buildings, improvements,
2 equipment and all ancillary facilities for use for offices,
3 stores, retirement homes, hotels, financial institutions,
4 service, health care, education, recreation or research
5 establishments, or any other commercial purpose which are or
6 are to be related to a housing development, provided that any
7 work or improvement located outside the State is owned,
8 operated, leased or managed by an entity located within the
9 State, or any entity affiliated with an entity located within
10 the State.

11 (ee) The term "conservation project" means any project
12 including the acquisition, construction, rehabilitation,
13 maintenance, operation, or upgrade that is intended to create
14 or expand open space or to reduce energy usage through
15 efficiency measures. For the purpose of this definition, "open
16 space" has the definition set forth under Section 10 of the
17 Illinois Open Land Trust Act.

18 (ff) The term "significant presence" means the existence
19 within the State of the national or regional headquarters of an
20 entity or group or such other facility of an entity or group of
21 entities where a significant amount of the business functions
22 are performed for such entity or group of entities.

23 (gg) The term "municipal bond issuer" means the State or
24 any other state or commonwealth of the United States, or any
25 unit of local government, school district, agency or
26 instrumentality, office, department, division, bureau,

1 commission, college or university thereof located in the State
2 or any other state or commonwealth of the United States.

3 (hh) The term "municipal bond program project" means a
4 program for the funding of the purchase of bonds, notes or
5 other obligations issued by or on behalf of a municipal bond
6 issuer.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-90, eff. 7-15-13; 98-104, eff. 7-22-13;
9 98-756, eff. 7-16-14.)

10 Section 35. The Illinois Health Facilities Planning Act is
11 amended by changing Sections 3, 12, 13, and 14.1 as follows:

12 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

13 (Section scheduled to be repealed on December 31, 2019)

14 Sec. 3. Definitions. As used in this Act:

15 "Health care facilities" means and includes the following
16 facilities, organizations, and related persons:

17 (1) An ambulatory surgical treatment center required
18 to be licensed pursuant to the Ambulatory Surgical
19 Treatment Center Act.

20 (2) An institution, place, building, or agency
21 required to be licensed pursuant to the Hospital Licensing
22 Act.

23 (3) Skilled and intermediate long term care facilities
24 licensed under the Nursing Home Care Act.

1 (A) If a demonstration project under the Nursing
2 Home Care Act applies for a certificate of need to
3 convert to a nursing facility, it shall meet the
4 licensure and certificate of need requirements in
5 effect as of the date of application.

6 (B) Except as provided in item (A) of this
7 subsection, this Act does not apply to facilities
8 granted waivers under Section 3-102.2 of the Nursing
9 Home Care Act.

10 (3.5) Skilled and intermediate care facilities
11 licensed under the ID/DD Community Care Act. ~~(A)~~ No permit
12 or exemption is required for a facility licensed under the
13 ID/DD Community Care Act prior to the reduction of the
14 number of beds at a facility. If there is a total reduction
15 of beds at a facility licensed under the ID/DD Community
16 Care Act, this is a discontinuation or closure of the
17 facility. If a facility licensed under the ID/DD Community
18 Care Act reduces the number of beds or discontinues the
19 facility, that facility must notify the Board as provided
20 in Section 14.1 of this Act.

21 (3.6) Skilled and intermediate care facilities
22 licensed under the MC/DD Act. No permit or exemption is
23 required for a facility licensed under the MC/DD Act prior
24 to the reduction of the number of beds at a facility. If
25 there is a total reduction of beds at a facility licensed
26 under the MC/DD Act, this is a discontinuation or closure

1 of the facility. If a facility licensed under the MC/DD Act
2 reduces the number of beds or discontinues the facility,
3 that facility must notify the Board as provided in Section
4 14.1 of this Act.

5 (3.7) Facilities licensed under the Specialized Mental
6 Health Rehabilitation Act of 2013.

7 (4) Hospitals, nursing homes, ambulatory surgical
8 treatment centers, or kidney disease treatment centers
9 maintained by the State or any department or agency
10 thereof.

11 (5) Kidney disease treatment centers, including a
12 free-standing hemodialysis unit required to be licensed
13 under the End Stage Renal Disease Facility Act.

14 (A) This Act does not apply to a dialysis facility
15 that provides only dialysis training, support, and
16 related services to individuals with end stage renal
17 disease who have elected to receive home dialysis.

18 (B) This Act does not apply to a dialysis unit
19 located in a licensed nursing home that offers or
20 provides dialysis-related services to residents with
21 end stage renal disease who have elected to receive
22 home dialysis within the nursing home.

23 (C) The Board, however, may require dialysis
24 facilities and licensed nursing homes under items (A)
25 and (B) of this subsection to report statistical
26 information on a quarterly basis to the Board to be

1 used by the Board to conduct analyses on the need for
2 proposed kidney disease treatment centers.

3 (6) An institution, place, building, or room used for
4 the performance of outpatient surgical procedures that is
5 leased, owned, or operated by or on behalf of an
6 out-of-state facility.

7 (7) An institution, place, building, or room used for
8 provision of a health care category of service, including,
9 but not limited to, cardiac catheterization and open heart
10 surgery.

11 (8) An institution, place, building, or room housing
12 major medical equipment used in the direct clinical
13 diagnosis or treatment of patients, and whose project cost
14 is in excess of the capital expenditure minimum.

15 "Health care facilities" does not include the following
16 entities or facility transactions:

17 (1) Federally-owned facilities.

18 (2) Facilities used solely for healing by prayer or
19 spiritual means.

20 (3) An existing facility located on any campus facility
21 as defined in Section 5-5.8b of the Illinois Public Aid
22 Code, provided that the campus facility encompasses 30 or
23 more contiguous acres and that the new or renovated
24 facility is intended for use by a licensed residential
25 facility.

26 (4) Facilities licensed under the Supportive

1 Residences Licensing Act or the Assisted Living and Shared
2 Housing Act.

3 (5) Facilities designated as supportive living
4 facilities that are in good standing with the program
5 established under Section 5-5.01a of the Illinois Public
6 Aid Code.

7 (6) Facilities established and operating under the
8 Alternative Health Care Delivery Act as a children's
9 community-based health care center ~~children's respite care~~
10 ~~center~~ alternative health care model demonstration program
11 or as an Alzheimer's Disease Management Center alternative
12 health care model demonstration program.

13 (7) The closure of an entity or a portion of an entity
14 licensed under the Nursing Home Care Act, the Specialized
15 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
16 Community Care Act, or the MC/DD Act, with the exception of
17 facilities operated by a county or Illinois Veterans Homes,
18 that elect to convert, in whole or in part, to an assisted
19 living or shared housing establishment licensed under the
20 Assisted Living and Shared Housing Act and with the
21 exception of a facility licensed under the Specialized
22 Mental Health Rehabilitation Act of 2013 in connection with
23 a proposal to close a facility and re-establish the
24 facility in another location.

25 (8) Any change of ownership of a health care ~~healthcare~~
26 facility that is licensed under the Nursing Home Care Act,

1 the Specialized Mental Health Rehabilitation Act of 2013,
2 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act, with the
3 exception of facilities operated by a county or Illinois
4 Veterans Homes. Changes of ownership of facilities
5 licensed under the Nursing Home Care Act must meet the
6 requirements set forth in Sections 3-101 through 3-119 of
7 the Nursing Home Care Act. ~~children's community based~~
8 ~~health care center of 2013 and with the exception of a~~
9 ~~facility licensed under the Specialized Mental Health~~
10 ~~Rehabilitation Act of 2013 in connection with a proposal to~~
11 ~~close a facility and re-establish the facility in another~~
12 ~~location of 2013~~

13 With the exception of those health care facilities
14 specifically included in this Section, nothing in this Act
15 shall be intended to include facilities operated as a part of
16 the practice of a physician or other licensed health care
17 professional, whether practicing in his individual capacity or
18 within the legal structure of any partnership, medical or
19 professional corporation, or unincorporated medical or
20 professional group. Further, this Act shall not apply to
21 physicians or other licensed health care professional's
22 practices where such practices are carried out in a portion of
23 a health care facility under contract with such health care
24 facility by a physician or by other licensed health care
25 professionals, whether practicing in his individual capacity
26 or within the legal structure of any partnership, medical or

1 professional corporation, or unincorporated medical or
2 professional groups, unless the entity constructs, modifies,
3 or establishes a health care facility as specifically defined
4 in this Section. This Act shall apply to construction or
5 modification and to establishment by such health care facility
6 of such contracted portion which is subject to facility
7 licensing requirements, irrespective of the party responsible
8 for such action or attendant financial obligation.

9 "Person" means any one or more natural persons, legal
10 entities, governmental bodies other than federal, or any
11 combination thereof.

12 "Consumer" means any person other than a person (a) whose
13 major occupation currently involves or whose official capacity
14 within the last 12 months has involved the providing,
15 administering or financing of any type of health care facility,
16 (b) who is engaged in health research or the teaching of
17 health, (c) who has a material financial interest in any
18 activity which involves the providing, administering or
19 financing of any type of health care facility, or (d) who is or
20 ever has been a member of the immediate family of the person
21 defined by (a), (b), or (c).

22 "State Board" or "Board" means the Health Facilities and
23 Services Review Board.

24 "Construction or modification" means the establishment,
25 erection, building, alteration, reconstruction, modernization,
26 improvement, extension, discontinuation, change of ownership,

1 of or by a health care facility, or the purchase or acquisition
2 by or through a health care facility of equipment or service
3 for diagnostic or therapeutic purposes or for facility
4 administration or operation, or any capital expenditure made by
5 or on behalf of a health care facility which exceeds the
6 capital expenditure minimum; however, any capital expenditure
7 made by or on behalf of a health care facility for (i) the
8 construction or modification of a facility licensed under the
9 Assisted Living and Shared Housing Act or (ii) a conversion
10 project undertaken in accordance with Section 30 of the Older
11 Adult Services Act shall be excluded from any obligations under
12 this Act.

13 "Establish" means the construction of a health care
14 facility or the replacement of an existing facility on another
15 site or the initiation of a category of service.

16 "Major medical equipment" means medical equipment which is
17 used for the provision of medical and other health services and
18 which costs in excess of the capital expenditure minimum,
19 except that such term does not include medical equipment
20 acquired by or on behalf of a clinical laboratory to provide
21 clinical laboratory services if the clinical laboratory is
22 independent of a physician's office and a hospital and it has
23 been determined under Title XVIII of the Social Security Act to
24 meet the requirements of paragraphs (10) and (11) of Section
25 1861(s) of such Act. In determining whether medical equipment
26 has a value in excess of the capital expenditure minimum, the

1 value of studies, surveys, designs, plans, working drawings,
2 specifications, and other activities essential to the
3 acquisition of such equipment shall be included.

4 "Capital Expenditure" means an expenditure: (A) made by or
5 on behalf of a health care facility (as such a facility is
6 defined in this Act); and (B) which under generally accepted
7 accounting principles is not properly chargeable as an expense
8 of operation and maintenance, or is made to obtain by lease or
9 comparable arrangement any facility or part thereof or any
10 equipment for a facility or part; and which exceeds the capital
11 expenditure minimum.

12 For the purpose of this paragraph, the cost of any studies,
13 surveys, designs, plans, working drawings, specifications, and
14 other activities essential to the acquisition, improvement,
15 expansion, or replacement of any plant or equipment with
16 respect to which an expenditure is made shall be included in
17 determining if such expenditure exceeds the capital
18 expenditures minimum. Unless otherwise interdependent, or
19 submitted as one project by the applicant, components of
20 construction or modification undertaken by means of a single
21 construction contract or financed through the issuance of a
22 single debt instrument shall not be grouped together as one
23 project. Donations of equipment or facilities to a health care
24 facility which if acquired directly by such facility would be
25 subject to review under this Act shall be considered capital
26 expenditures, and a transfer of equipment or facilities for

1 less than fair market value shall be considered a capital
2 expenditure for purposes of this Act if a transfer of the
3 equipment or facilities at fair market value would be subject
4 to review.

5 "Capital expenditure minimum" means \$11,500,000 for
6 projects by hospital applicants, \$6,500,000 for applicants for
7 projects related to skilled and intermediate care long-term
8 care facilities licensed under the Nursing Home Care Act, and
9 \$3,000,000 for projects by all other applicants, which shall be
10 annually adjusted to reflect the increase in construction costs
11 due to inflation, for major medical equipment and for all other
12 capital expenditures.

13 "Non-clinical service area" means an area (i) for the
14 benefit of the patients, visitors, staff, or employees of a
15 health care facility and (ii) not directly related to the
16 diagnosis, treatment, or rehabilitation of persons receiving
17 services from the health care facility. "Non-clinical service
18 areas" include, but are not limited to, chapels; gift shops;
19 news stands; computer systems; tunnels, walkways, and
20 elevators; telephone systems; projects to comply with life
21 safety codes; educational facilities; student housing;
22 patient, employee, staff, and visitor dining areas;
23 administration and volunteer offices; modernization of
24 structural components (such as roof replacement and masonry
25 work); boiler repair or replacement; vehicle maintenance and
26 storage facilities; parking facilities; mechanical systems for

1 heating, ventilation, and air conditioning; loading docks; and
2 repair or replacement of carpeting, tile, wall coverings,
3 window coverings or treatments, or furniture. Solely for the
4 purpose of this definition, "non-clinical service area" does
5 not include health and fitness centers.

6 "Areawide" means a major area of the State delineated on a
7 geographic, demographic, and functional basis for health
8 planning and for health service and having within it one or
9 more local areas for health planning and health service. The
10 term "region", as contrasted with the term "subregion", and the
11 word "area" may be used synonymously with the term "areawide".

12 "Local" means a subarea of a delineated major area that on
13 a geographic, demographic, and functional basis may be
14 considered to be part of such major area. The term "subregion"
15 may be used synonymously with the term "local".

16 "Physician" means a person licensed to practice in
17 accordance with the Medical Practice Act of 1987, as amended.

18 "Licensed health care professional" means a person
19 licensed to practice a health profession under pertinent
20 licensing statutes of the State of Illinois.

21 "Director" means the Director of the Illinois Department of
22 Public Health.

23 "Agency" means the Illinois Department of Public Health.

24 "Alternative health care model" means a facility or program
25 authorized under the Alternative Health Care Delivery Act.

26 "Out-of-state facility" means a person that is both (i)

1 licensed as a hospital or as an ambulatory surgery center under
2 the laws of another state or that qualifies as a hospital or an
3 ambulatory surgery center under regulations adopted pursuant
4 to the Social Security Act and (ii) not licensed under the
5 Ambulatory Surgical Treatment Center Act, the Hospital
6 Licensing Act, or the Nursing Home Care Act. Affiliates of
7 out-of-state facilities shall be considered out-of-state
8 facilities. Affiliates of Illinois licensed health care
9 facilities 100% owned by an Illinois licensed health care
10 facility, its parent, or Illinois physicians licensed to
11 practice medicine in all its branches shall not be considered
12 out-of-state facilities. Nothing in this definition shall be
13 construed to include an office or any part of an office of a
14 physician licensed to practice medicine in all its branches in
15 Illinois that is not required to be licensed under the
16 Ambulatory Surgical Treatment Center Act.

17 "Change of ownership of a health care facility" means a
18 change in the person who has ownership or control of a health
19 care facility's physical plant and capital assets. A change in
20 ownership is indicated by the following transactions: sale,
21 transfer, acquisition, lease, change of sponsorship, or other
22 means of transferring control.

23 "Related person" means any person that: (i) is at least 50%
24 owned, directly or indirectly, by either the health care
25 facility or a person owning, directly or indirectly, at least
26 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

2 "Charity care" means care provided by a health care
3 facility for which the provider does not expect to receive
4 payment from the patient or a third-party payer.

5 "Freestanding emergency center" means a facility subject
6 to licensure under Section 32.5 of the Emergency Medical
7 Services (EMS) Systems Act.

8 "Category of service" means a grouping by generic class of
9 various types or levels of support functions, equipment, care,
10 or treatment provided to patients or residents, including, but
11 not limited to, classes such as medical-surgical, pediatrics,
12 or cardiac catheterization. A category of service may include
13 subcategories or levels of care that identify a particular
14 degree or type of care within the category of service. Nothing
15 in this definition shall be construed to include the practice
16 of a physician or other licensed health care professional while
17 functioning in an office providing for the care, diagnosis, or
18 treatment of patients. A category of service that is subject to
19 the Board's jurisdiction must be designated in rules adopted by
20 the Board.

21 "State Board Staff Report" means the document that sets
22 forth the review and findings of the State Board staff, as
23 prescribed by the State Board, regarding applications subject
24 to Board jurisdiction.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-277, eff. 1-1-12; 97-813,
26 eff. 7-13-12; 97-980, eff. 8-17-12; 98-414, eff. 1-1-14;

1 98-629, eff. 1-1-15; 98-651, eff. 6-16-14; 98-1086, eff.
2 8-26-14; revised 10-22-14.)

3 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

4 (Section scheduled to be repealed on December 31, 2019)

5 Sec. 12. Powers and duties of State Board. For purposes of
6 this Act, the State Board shall exercise the following powers
7 and duties:

8 (1) Prescribe rules, regulations, standards, criteria,
9 procedures or reviews which may vary according to the purpose
10 for which a particular review is being conducted or the type of
11 project reviewed and which are required to carry out the
12 provisions and purposes of this Act. Policies and procedures of
13 the State Board shall take into consideration the priorities
14 and needs of medically underserved areas and other health care
15 services identified through the comprehensive health planning
16 process, giving special consideration to the impact of projects
17 on access to safety net services.

18 (2) Adopt procedures for public notice and hearing on all
19 proposed rules, regulations, standards, criteria, and plans
20 required to carry out the provisions of this Act.

21 (3) (Blank).

22 (4) Develop criteria and standards for health care
23 facilities planning, conduct statewide inventories of health
24 care facilities, maintain an updated inventory on the Board's
25 web site reflecting the most recent bed and service changes and

1 updated need determinations when new census data become
2 available or new need formulae are adopted, and develop health
3 care facility plans which shall be utilized in the review of
4 applications for permit under this Act. Such health facility
5 plans shall be coordinated by the Board with pertinent State
6 Plans. Inventories pursuant to this Section of skilled or
7 intermediate care facilities licensed under the Nursing Home
8 Care Act, skilled or intermediate care facilities licensed
9 under the ID/DD Community Care Act, skilled or intermediate
10 care facilities licensed under the MC/DD Act, facilities
11 licensed under the Specialized Mental Health Rehabilitation
12 Act of 2013, or nursing homes licensed under the Hospital
13 Licensing Act shall be conducted on an annual basis no later
14 than July 1 of each year and shall include among the
15 information requested a list of all services provided by a
16 facility to its residents and to the community at large and
17 differentiate between active and inactive beds.

18 In developing health care facility plans, the State Board
19 shall consider, but shall not be limited to, the following:

20 (a) The size, composition and growth of the population
21 of the area to be served;

22 (b) The number of existing and planned facilities
23 offering similar programs;

24 (c) The extent of utilization of existing facilities;

25 (d) The availability of facilities which may serve as
26 alternatives or substitutes;

1 (e) The availability of personnel necessary to the
2 operation of the facility;

3 (f) Multi-institutional planning and the establishment
4 of multi-institutional systems where feasible;

5 (g) The financial and economic feasibility of proposed
6 construction or modification; and

7 (h) In the case of health care facilities established
8 by a religious body or denomination, the needs of the
9 members of such religious body or denomination may be
10 considered to be public need.

11 The health care facility plans which are developed and
12 adopted in accordance with this Section shall form the basis
13 for the plan of the State to deal most effectively with
14 statewide health needs in regard to health care facilities.

15 (5) Coordinate with the Center for Comprehensive Health
16 Planning and other state agencies having responsibilities
17 affecting health care facilities, including those of licensure
18 and cost reporting. Beginning no later than January 1, 2013,
19 the Department of Public Health shall produce a written annual
20 report to the Governor and the General Assembly regarding the
21 development of the Center for Comprehensive Health Planning.
22 The Chairman of the State Board and the State Board
23 Administrator shall also receive a copy of the annual report.

24 (6) Solicit, accept, hold and administer on behalf of the
25 State any grants or bequests of money, securities or property
26 for use by the State Board or Center for Comprehensive Health

1 Planning in the administration of this Act; and enter into
2 contracts consistent with the appropriations for purposes
3 enumerated in this Act.

4 (7) The State Board shall prescribe procedures for review,
5 standards, and criteria which shall be utilized to make
6 periodic reviews and determinations of the appropriateness of
7 any existing health services being rendered by health care
8 facilities subject to the Act. The State Board shall consider
9 recommendations of the Board in making its determinations.

10 (8) Prescribe, in consultation with the Center for
11 Comprehensive Health Planning, rules, regulations, standards,
12 and criteria for the conduct of an expeditious review of
13 applications for permits for projects of construction or
14 modification of a health care facility, which projects are
15 classified as emergency, substantive, or non-substantive in
16 nature.

17 Six months after June 30, 2009 (the effective date of
18 Public Act 96-31), substantive projects shall include no more
19 than the following:

20 (a) Projects to construct (1) a new or replacement
21 facility located on a new site or (2) a replacement
22 facility located on the same site as the original facility
23 and the cost of the replacement facility exceeds the
24 capital expenditure minimum, which shall be reviewed by the
25 Board within 120 days;

26 (b) Projects proposing a (1) new service within an

1 existing healthcare facility or (2) discontinuation of a
2 service within an existing healthcare facility, which
3 shall be reviewed by the Board within 60 days; or

4 (c) Projects proposing a change in the bed capacity of
5 a health care facility by an increase in the total number
6 of beds or by a redistribution of beds among various
7 categories of service or by a relocation of beds from one
8 physical facility or site to another by more than 20 beds
9 or more than 10% of total bed capacity, as defined by the
10 State Board, whichever is less, over a 2-year period.

11 The Chairman may approve applications for exemption that
12 meet the criteria set forth in rules or refer them to the full
13 Board. The Chairman may approve any unopposed application that
14 meets all of the review criteria or refer them to the full
15 Board.

16 Such rules shall not abridge the right of the Center for
17 Comprehensive Health Planning to make recommendations on the
18 classification and approval of projects, nor shall such rules
19 prevent the conduct of a public hearing upon the timely request
20 of an interested party. Such reviews shall not exceed 60 days
21 from the date the application is declared to be complete.

22 (9) Prescribe rules, regulations, standards, and criteria
23 pertaining to the granting of permits for construction and
24 modifications which are emergent in nature and must be
25 undertaken immediately to prevent or correct structural
26 deficiencies or hazardous conditions that may harm or injure

1 persons using the facility, as defined in the rules and
2 regulations of the State Board. This procedure is exempt from
3 public hearing requirements of this Act.

4 (10) Prescribe rules, regulations, standards and criteria
5 for the conduct of an expeditious review, not exceeding 60
6 days, of applications for permits for projects to construct or
7 modify health care facilities which are needed for the care and
8 treatment of persons who have acquired immunodeficiency
9 syndrome (AIDS) or related conditions.

10 (11) Issue written decisions upon request of the applicant
11 or an adversely affected party to the Board. Requests for a
12 written decision shall be made within 15 days after the Board
13 meeting in which a final decision has been made. A "final
14 decision" for purposes of this Act is the decision to approve
15 or deny an application, or take other actions permitted under
16 this Act, at the time and date of the meeting that such action
17 is scheduled by the Board. State Board members shall provide
18 their rationale when voting on an item before the State Board
19 at a State Board meeting in order to comply with subsection (b)
20 of Section 3-108 of the Administrative Review Law of the Code
21 of Civil Procedure. The transcript of the State Board meeting
22 shall be incorporated into the Board's final decision. The
23 staff of the Board shall prepare a written copy of the final
24 decision and the Board shall approve a final copy for inclusion
25 in the formal record. The Board shall consider, for approval,
26 the written draft of the final decision no later than the next

1 scheduled Board meeting. The written decision shall identify
2 the applicable criteria and factors listed in this Act and the
3 Board's regulations that were taken into consideration by the
4 Board when coming to a final decision. If the Board denies or
5 fails to approve an application for permit or exemption, the
6 Board shall include in the final decision a detailed
7 explanation as to why the application was denied and identify
8 what specific criteria or standards the applicant did not
9 fulfill.

10 (12) Require at least one of its members to participate in
11 any public hearing, after the appointment of a majority of the
12 members to the Board.

13 (13) Provide a mechanism for the public to comment on, and
14 request changes to, draft rules and standards.

15 (14) Implement public information campaigns to regularly
16 inform the general public about the opportunity for public
17 hearings and public hearing procedures.

18 (15) Establish a separate set of rules and guidelines for
19 long-term care that recognizes that nursing homes are a
20 different business line and service model from other regulated
21 facilities. An open and transparent process shall be developed
22 that considers the following: how skilled nursing fits in the
23 continuum of care with other care providers, modernization of
24 nursing homes, establishment of more private rooms,
25 development of alternative services, and current trends in
26 long-term care services. The Chairman of the Board shall

1 appoint a permanent Health Services Review Board Long-term Care
2 Facility Advisory Subcommittee that shall develop and
3 recommend to the Board the rules to be established by the Board
4 under this paragraph (15). The Subcommittee shall also provide
5 continuous review and commentary on policies and procedures
6 relative to long-term care and the review of related projects.
7 In consultation with other experts from the health field of
8 long-term care, the Board and the Subcommittee shall study new
9 approaches to the current bed need formula and Health Service
10 Area boundaries to encourage flexibility and innovation in
11 design models reflective of the changing long-term care
12 marketplace and consumer preferences. The Subcommittee shall
13 evaluate, and make recommendations to the State Board
14 regarding, the buying, selling, and exchange of beds between
15 long-term care facilities within a specified geographic area or
16 drive time. The Board shall file the proposed related
17 administrative rules for the separate rules and guidelines for
18 long-term care required by this paragraph (15) by no later than
19 September 30, 2011. The Subcommittee shall be provided a
20 reasonable and timely opportunity to review and comment on any
21 review, revision, or updating of the criteria, standards,
22 procedures, and rules used to evaluate project applications as
23 provided under Section 12.3 of this Act.

24 (16) Prescribe and provide forms pertaining to the State
25 Board Staff Report. A State Board Staff Report shall pertain to
26 applications that include, but are not limited to, applications

1 for permit or exemption, applications for permit renewal,
2 applications for extension of the obligation period,
3 applications requesting a declaratory ruling, or applications
4 under the Health Care Worker Self-Referral ~~Self-Referral~~ Act.
5 State Board Staff Reports shall compare applications to the
6 relevant review criteria under the Board's rules.

7 (17) ~~(16)~~ Establish a separate set of rules and guidelines
8 for facilities licensed under the Specialized Mental Health
9 Rehabilitation Act of 2013. An application for the
10 re-establishment of a facility in connection with the
11 relocation of the facility shall not be granted unless the
12 applicant has a contractual relationship with at least one
13 hospital to provide emergency and inpatient mental health
14 services required by facility consumers, and at least one
15 community mental health agency to provide oversight and
16 assistance to facility consumers while living in the facility,
17 and appropriate services, including case management, to assist
18 them to prepare for discharge and reside stably in the
19 community thereafter. No new facilities licensed under the
20 Specialized Mental Health Rehabilitation Act of 2013 shall be
21 established after June 16, 2014 (the effective date of Public
22 Act 98-651) ~~this amendatory Act of the 98th General Assembly~~
23 except in connection with the relocation of an existing
24 facility to a new location. An application for a new location
25 shall not be approved unless there are adequate community
26 services accessible to the consumers within a reasonable

1 distance, or by use of public transportation, so as to
2 facilitate the goal of achieving maximum individual self-care
3 and independence. At no time shall the total number of
4 authorized beds under this Act in facilities licensed under the
5 Specialized Mental Health Rehabilitation Act of 2013 exceed the
6 number of authorized beds on June 16, 2014 (the effective date
7 of Public Act 98-651) ~~this amendatory Act of the 98th General~~
8 ~~Assembly.~~

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 97-1045, eff. 8-21-13; 97-1115, eff. 8-27-12;
11 98-414, eff. 1-1-14; 98-463, eff. 8-16-13; 98-651, eff.
12 6-16-14; 98-1086, eff. 8-26-14; revised 10-1-14.)

13 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

14 (Section scheduled to be repealed on December 31, 2019)

15 Sec. 13. Investigation of applications for permits and
16 certificates of recognition. The State Board shall make or
17 cause to be made such investigations as it deems necessary in
18 connection with an application for a permit or an application
19 for a certificate of recognition, or in connection with a
20 determination of whether or not construction or modification
21 which has been commenced is in accord with the permit issued by
22 the State Board or whether construction or modification has
23 been commenced without a permit having been obtained. The State
24 Board may issue subpoenas duces tecum requiring the production
25 of records and may administer oaths to such witnesses.

1 Any circuit court of this State, upon the application of
2 the State Board or upon the application of any party to such
3 proceedings, may, in its discretion, compel the attendance of
4 witnesses, the production of books, papers, records, or
5 memoranda and the giving of testimony before the State Board,
6 by a proceeding as for contempt, or otherwise, in the same
7 manner as production of evidence may be compelled before the
8 court.

9 The State Board shall require all health facilities
10 operating in this State to provide such reasonable reports at
11 such times and containing such information as is needed by it
12 to carry out the purposes and provisions of this Act. Prior to
13 collecting information from health facilities, the State Board
14 shall make reasonable efforts through a public process to
15 consult with health facilities and associations that represent
16 them to determine whether data and information requests will
17 result in useful information for health planning, whether
18 sufficient information is available from other sources, and
19 whether data requested is routinely collected by health
20 facilities and is available without retrospective record
21 review. Data and information requests shall not impose undue
22 paperwork burdens on health care facilities and personnel.
23 Health facilities not complying with this requirement shall be
24 reported to licensing, accrediting, certifying, or payment
25 agencies as being in violation of State law. Health care
26 facilities and other parties at interest shall have reasonable

1 access, under rules established by the State Board, to all
2 planning information submitted in accord with this Act
3 pertaining to their area.

4 Among the reports to be required by the State Board are
5 facility questionnaires for health care facilities licensed
6 under the Ambulatory Surgical Treatment Center Act, the
7 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD
8 Community Care Act, the MC/DD Act, the Specialized Mental
9 Health Rehabilitation Act of 2013, or the End Stage Renal
10 Disease Facility Act. These questionnaires shall be conducted
11 on an annual basis and compiled by the State Board. For health
12 care facilities licensed under the Nursing Home Care Act or the
13 Specialized Mental Health Rehabilitation Act of 2013, these
14 reports shall include, but not be limited to, the
15 identification of specialty services provided by the facility
16 to patients, residents, and the community at large. Annual
17 reports for facilities licensed under the ID/DD Community Care
18 Act and facilities licensed under the MC/DD Act shall be
19 different from the annual reports required of other health care
20 facilities and shall be specific to those facilities licensed
21 under the ID/DD Community Care Act or the MC/DD Act. The Health
22 Facilities and Services Review Board shall consult with
23 associations representing facilities licensed under the ID/DD
24 Community Care Act and associations representing facilities
25 licensed under the MC/DD Act when developing the information
26 requested in these annual reports. For health care facilities

1 that contain long term care beds, the reports shall also
2 include the number of staffed long term care beds, physical
3 capacity for long term care beds at the facility, and long term
4 care beds available for immediate occupancy. For purposes of
5 this paragraph, "long term care beds" means beds (i) licensed
6 under the Nursing Home Care Act, (ii) licensed under the ID/DD
7 Community Care Act, (iii) licensed under the MC/DD Act, (iv)
8 ~~(iii)~~ licensed under the Hospital Licensing Act, or (v) ~~(iv)~~
9 licensed under the Specialized Mental Health Rehabilitation
10 Act of 2013 and certified as skilled nursing or nursing
11 facility beds under Medicaid or Medicare.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 97-980, eff. 8-17-12; 98-1086, eff. 8-26-14.)

14 (20 ILCS 3960/14.1)

15 Sec. 14.1. Denial of permit; other sanctions.

16 (a) The State Board may deny an application for a permit or
17 may revoke or take other action as permitted by this Act with
18 regard to a permit as the State Board deems appropriate,
19 including the imposition of fines as set forth in this Section,
20 for any one or a combination of the following:

21 (1) The acquisition of major medical equipment without
22 a permit or in violation of the terms of a permit.

23 (2) The establishment, construction, or modification
24 of a health care facility without a permit or in violation
25 of the terms of a permit.

1 (3) The violation of any provision of this Act or any
2 rule adopted under this Act.

3 (4) The failure, by any person subject to this Act, to
4 provide information requested by the State Board or Agency
5 within 30 days after a formal written request for the
6 information.

7 (5) The failure to pay any fine imposed under this
8 Section within 30 days of its imposition.

9 (a-5) For facilities licensed under the ID/DD Community
10 Care Act, no permit shall be denied on the basis of prior
11 operator history, other than for actions specified under item
12 (2), (4), or (5) of Section 3-117 of the ID/DD Community Care
13 Act. For facilities licensed under the MC/DD Act, no permit
14 shall be denied on the basis of prior operator history, other
15 than for actions specified under item (2), (4), or (5) of
16 Section 3-117 of the MC/DD Act. For facilities licensed under
17 the Specialized Mental Health Rehabilitation Act of 2013, no
18 permit shall be denied on the basis of prior operator history,
19 other than for actions specified under item (2), (4), or (5) of
20 Section 3-117 of the Specialized Mental Health Rehabilitation
21 Act of 2013. For facilities licensed under the Nursing Home
22 Care Act, no permit shall be denied on the basis of prior
23 operator history, other than for: (i) actions specified under
24 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
25 Home Care Act; (ii) actions specified under item (a)(6) of
26 Section 3-119 of the Nursing Home Care Act; or (iii) actions

1 within the preceding 5 years constituting a substantial and
2 repeated failure to comply with the Nursing Home Care Act or
3 the rules and regulations adopted by the Department under that
4 Act. The State Board shall not deny a permit on account of any
5 action described in this subsection (a-5) without also
6 considering all such actions in the light of all relevant
7 information available to the State Board, including whether the
8 permit is sought to substantially comply with a mandatory or
9 voluntary plan of correction associated with any action
10 described in this subsection (a-5).

11 (b) Persons shall be subject to fines as follows:

12 (1) A permit holder who fails to comply with the
13 requirements of maintaining a valid permit shall be fined
14 an amount not to exceed 1% of the approved permit amount
15 plus an additional 1% of the approved permit amount for
16 each 30-day period, or fraction thereof, that the violation
17 continues.

18 (2) A permit holder who alters the scope of an approved
19 project or whose project costs exceed the allowable permit
20 amount without first obtaining approval from the State
21 Board shall be fined an amount not to exceed the sum of (i)
22 the lesser of \$25,000 or 2% of the approved permit amount
23 and (ii) in those cases where the approved permit amount is
24 exceeded by more than \$1,000,000, an additional \$20,000 for
25 each \$1,000,000, or fraction thereof, in excess of the
26 approved permit amount.

1 (2.5) A permit holder who fails to comply with the
2 post-permit and reporting requirements set forth in
3 Section 5 shall be fined an amount not to exceed \$10,000
4 plus an additional \$10,000 for each 30-day period, or
5 fraction thereof, that the violation continues. This fine
6 shall continue to accrue until the date that (i) the
7 post-permit requirements are met and the post-permit
8 reports are received by the State Board or (ii) the matter
9 is referred by the State Board to the State Board's legal
10 counsel. The accrued fine is not waived by the permit
11 holder submitting the required information and reports.
12 Prior to any fine beginning to accrue, the Board shall
13 notify, in writing, a permit holder of the due date for the
14 post-permit and reporting requirements no later than 30
15 days before the due date for the requirements. This
16 paragraph (2.5) takes effect 6 months after August 27, 2012
17 (the effective date of Public Act 97-1115).

18 (3) A person who acquires major medical equipment or
19 who establishes a category of service without first
20 obtaining a permit or exemption, as the case may be, shall
21 be fined an amount not to exceed \$10,000 for each such
22 acquisition or category of service established plus an
23 additional \$10,000 for each 30-day period, or fraction
24 thereof, that the violation continues.

25 (4) A person who constructs, modifies, or establishes a
26 health care facility without first obtaining a permit shall

1 be fined an amount not to exceed \$25,000 plus an additional
2 \$25,000 for each 30-day period, or fraction thereof, that
3 the violation continues.

4 (5) A person who discontinues a health care facility or
5 a category of service without first obtaining a permit
6 shall be fined an amount not to exceed \$10,000 plus an
7 additional \$10,000 for each 30-day period, or fraction
8 thereof, that the violation continues. For purposes of this
9 subparagraph (5), facilities licensed under the Nursing
10 Home Care Act, ~~or~~ the ID/DD Community Care Act, or the
11 MC/DD Act, with the exceptions of facilities operated by a
12 county or Illinois Veterans Homes, are exempt from this
13 permit requirement. However, facilities licensed under the
14 Nursing Home Care Act, ~~or~~ the ID/DD Community Care Act, or
15 the MC/DD Act must comply with Section 3-423 of the Nursing
16 Home Care Act, ~~or~~ Section 3-423 of the ID/DD Community Care
17 Act, or Section 3-423 of the MC/DD Act and must provide the
18 Board and the Department of Human Services with 30 days'
19 written notice of their ~~its~~ intent to close. Facilities
20 licensed under the ID/DD Community Care Act or the MC/DD
21 Act also must provide the Board and the Department of Human
22 Services with 30 days' written notice of their ~~its~~ intent
23 to reduce the number of beds for a facility.

24 (6) A person subject to this Act who fails to provide
25 information requested by the State Board or Agency within
26 30 days of a formal written request shall be fined an

1 amount not to exceed \$1,000 plus an additional \$1,000 for
2 each 30-day period, or fraction thereof, that the
3 information is not received by the State Board or Agency.

4 (c) Before imposing any fine authorized under this Section,
5 the State Board shall afford the person or permit holder, as
6 the case may be, an appearance before the State Board and an
7 opportunity for a hearing before a hearing officer appointed by
8 the State Board. The hearing shall be conducted in accordance
9 with Section 10.

10 (d) All fines collected under this Act shall be transmitted
11 to the State Treasurer, who shall deposit them into the
12 Illinois Health Facilities Planning Fund.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 97-980, eff. 8-17-12; 97-1115, eff. 8-27-12;
15 98-463, eff. 8-16-13.)

16 Section 40. The Illinois Income Tax Act is amended by
17 changing Section 806 as follows:

18 (35 ILCS 5/806)

19 Sec. 806. Exemption from penalty. An individual taxpayer
20 shall not be subject to a penalty for failing to pay estimated
21 tax as required by Section 803 if the taxpayer is 65 years of
22 age or older and is a permanent resident of a nursing home. For
23 purposes of this Section, "nursing home" means a skilled
24 nursing or intermediate long term care facility that is subject

1 to licensure by the Illinois Department of Public Health under
2 the Nursing Home Care Act, the Specialized Mental Health
3 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
4 the MC/DD Act.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13.)

7 Section 45. The Use Tax Act is amended by changing Section
8 3-5 as follows:

9 (35 ILCS 105/3-5)

10 Sec. 3-5. Exemptions. Use of the following tangible
11 personal property is exempt from the tax imposed by this Act:

12 (1) Personal property purchased from a corporation,
13 society, association, foundation, institution, or
14 organization, other than a limited liability company, that is
15 organized and operated as a not-for-profit service enterprise
16 for the benefit of persons 65 years of age or older if the
17 personal property was not purchased by the enterprise for the
18 purpose of resale by the enterprise.

19 (2) Personal property purchased by a not-for-profit
20 Illinois county fair association for use in conducting,
21 operating, or promoting the county fair.

22 (3) Personal property purchased by a not-for-profit arts or
23 cultural organization that establishes, by proof required by
24 the Department by rule, that it has received an exemption under

1 Section 501(c)(3) of the Internal Revenue Code and that is
2 organized and operated primarily for the presentation or
3 support of arts or cultural programming, activities, or
4 services. These organizations include, but are not limited to,
5 music and dramatic arts organizations such as symphony
6 orchestras and theatrical groups, arts and cultural service
7 organizations, local arts councils, visual arts organizations,
8 and media arts organizations. On and after the effective date
9 of this amendatory Act of the 92nd General Assembly, however,
10 an entity otherwise eligible for this exemption shall not make
11 tax-free purchases unless it has an active identification
12 number issued by the Department.

13 (4) Personal property purchased by a governmental body, by
14 a corporation, society, association, foundation, or
15 institution organized and operated exclusively for charitable,
16 religious, or educational purposes, or by a not-for-profit
17 corporation, society, association, foundation, institution, or
18 organization that has no compensated officers or employees and
19 that is organized and operated primarily for the recreation of
20 persons 55 years of age or older. A limited liability company
21 may qualify for the exemption under this paragraph only if the
22 limited liability company is organized and operated
23 exclusively for educational purposes. On and after July 1,
24 1987, however, no entity otherwise eligible for this exemption
25 shall make tax-free purchases unless it has an active exemption
26 identification number issued by the Department.

1 (5) Until July 1, 2003, a passenger car that is a
2 replacement vehicle to the extent that the purchase price of
3 the car is subject to the Replacement Vehicle Tax.

4 (6) Until July 1, 2003 and beginning again on September 1,
5 2004 through August 30, 2014, graphic arts machinery and
6 equipment, including repair and replacement parts, both new and
7 used, and including that manufactured on special order,
8 certified by the purchaser to be used primarily for graphic
9 arts production, and including machinery and equipment
10 purchased for lease. Equipment includes chemicals or chemicals
11 acting as catalysts but only if the chemicals or chemicals
12 acting as catalysts effect a direct and immediate change upon a
13 graphic arts product.

14 (7) Farm chemicals.

15 (8) Legal tender, currency, medallions, or gold or silver
16 coinage issued by the State of Illinois, the government of the
17 United States of America, or the government of any foreign
18 country, and bullion.

19 (9) Personal property purchased from a teacher-sponsored
20 student organization affiliated with an elementary or
21 secondary school located in Illinois.

22 (10) A motor vehicle that is used for automobile renting,
23 as defined in the Automobile Renting Occupation and Use Tax
24 Act.

25 (11) Farm machinery and equipment, both new and used,
26 including that manufactured on special order, certified by the

1 purchaser to be used primarily for production agriculture or
2 State or federal agricultural programs, including individual
3 replacement parts for the machinery and equipment, including
4 machinery and equipment purchased for lease, and including
5 implements of husbandry defined in Section 1-130 of the
6 Illinois Vehicle Code, farm machinery and agricultural
7 chemical and fertilizer spreaders, and nurse wagons required to
8 be registered under Section 3-809 of the Illinois Vehicle Code,
9 but excluding other motor vehicles required to be registered
10 under the Illinois Vehicle Code. Horticultural polyhouses or
11 hoop houses used for propagating, growing, or overwintering
12 plants shall be considered farm machinery and equipment under
13 this item (11). Agricultural chemical tender tanks and dry
14 boxes shall include units sold separately from a motor vehicle
15 required to be licensed and units sold mounted on a motor
16 vehicle required to be licensed if the selling price of the
17 tender is separately stated.

18 Farm machinery and equipment shall include precision
19 farming equipment that is installed or purchased to be
20 installed on farm machinery and equipment including, but not
21 limited to, tractors, harvesters, sprayers, planters, seeders,
22 or spreaders. Precision farming equipment includes, but is not
23 limited to, soil testing sensors, computers, monitors,
24 software, global positioning and mapping systems, and other
25 such equipment.

26 Farm machinery and equipment also includes computers,

1 sensors, software, and related equipment used primarily in the
2 computer-assisted operation of production agriculture
3 facilities, equipment, and activities such as, but not limited
4 to, the collection, monitoring, and correlation of animal and
5 crop data for the purpose of formulating animal diets and
6 agricultural chemicals. This item (11) is exempt from the
7 provisions of Section 3-90.

8 (12) Until June 30, 2013, fuel and petroleum products sold
9 to or used by an air common carrier, certified by the carrier
10 to be used for consumption, shipment, or storage in the conduct
11 of its business as an air common carrier, for a flight destined
12 for or returning from a location or locations outside the
13 United States without regard to previous or subsequent domestic
14 stopovers.

15 Beginning July 1, 2013, fuel and petroleum products sold to
16 or used by an air carrier, certified by the carrier to be used
17 for consumption, shipment, or storage in the conduct of its
18 business as an air common carrier, for a flight that (i) is
19 engaged in foreign trade or is engaged in trade between the
20 United States and any of its possessions and (ii) transports at
21 least one individual or package for hire from the city of
22 origination to the city of final destination on the same
23 aircraft, without regard to a change in the flight number of
24 that aircraft.

25 (13) Proceeds of mandatory service charges separately
26 stated on customers' bills for the purchase and consumption of

1 food and beverages purchased at retail from a retailer, to the
2 extent that the proceeds of the service charge are in fact
3 turned over as tips or as a substitute for tips to the
4 employees who participate directly in preparing, serving,
5 hosting or cleaning up the food or beverage function with
6 respect to which the service charge is imposed.

7 (14) Until July 1, 2003, oil field exploration, drilling,
8 and production equipment, including (i) rigs and parts of rigs,
9 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
10 tubular goods, including casing and drill strings, (iii) pumps
11 and pump-jack units, (iv) storage tanks and flow lines, (v) any
12 individual replacement part for oil field exploration,
13 drilling, and production equipment, and (vi) machinery and
14 equipment purchased for lease; but excluding motor vehicles
15 required to be registered under the Illinois Vehicle Code.

16 (15) Photoprocessing machinery and equipment, including
17 repair and replacement parts, both new and used, including that
18 manufactured on special order, certified by the purchaser to be
19 used primarily for photoprocessing, and including
20 photoprocessing machinery and equipment purchased for lease.

21 (16) Coal and aggregate exploration, mining, off-highway
22 hauling, processing, maintenance, and reclamation equipment,
23 including replacement parts and equipment, and including
24 equipment purchased for lease, but excluding motor vehicles
25 required to be registered under the Illinois Vehicle Code. The
26 changes made to this Section by Public Act 97-767 apply on and

1 after July 1, 2003, but no claim for credit or refund is
2 allowed on or after August 16, 2013 (the effective date of
3 Public Act 98-456) for such taxes paid during the period
4 beginning July 1, 2003 and ending on August 16, 2013 (the
5 effective date of Public Act 98-456).

6 (17) Until July 1, 2003, distillation machinery and
7 equipment, sold as a unit or kit, assembled or installed by the
8 retailer, certified by the user to be used only for the
9 production of ethyl alcohol that will be used for consumption
10 as motor fuel or as a component of motor fuel for the personal
11 use of the user, and not subject to sale or resale.

12 (18) Manufacturing and assembling machinery and equipment
13 used primarily in the process of manufacturing or assembling
14 tangible personal property for wholesale or retail sale or
15 lease, whether that sale or lease is made directly by the
16 manufacturer or by some other person, whether the materials
17 used in the process are owned by the manufacturer or some other
18 person, or whether that sale or lease is made apart from or as
19 an incident to the seller's engaging in the service occupation
20 of producing machines, tools, dies, jigs, patterns, gauges, or
21 other similar items of no commercial value on special order for
22 a particular purchaser. The exemption provided by this
23 paragraph (18) does not include machinery and equipment used in
24 (i) the generation of electricity for wholesale or retail sale;
25 (ii) the generation or treatment of natural or artificial gas
26 for wholesale or retail sale that is delivered to customers

1 through pipes, pipelines, or mains; or (iii) the treatment of
2 water for wholesale or retail sale that is delivered to
3 customers through pipes, pipelines, or mains. The provisions of
4 Public Act 98-583 are declaratory of existing law as to the
5 meaning and scope of this exemption.

6 (19) Personal property delivered to a purchaser or
7 purchaser's donee inside Illinois when the purchase order for
8 that personal property was received by a florist located
9 outside Illinois who has a florist located inside Illinois
10 deliver the personal property.

11 (20) Semen used for artificial insemination of livestock
12 for direct agricultural production.

13 (21) Horses, or interests in horses, registered with and
14 meeting the requirements of any of the Arabian Horse Club
15 Registry of America, Appaloosa Horse Club, American Quarter
16 Horse Association, United States Trotting Association, or
17 Jockey Club, as appropriate, used for purposes of breeding or
18 racing for prizes. This item (21) is exempt from the provisions
19 of Section 3-90, and the exemption provided for under this item
20 (21) applies for all periods beginning May 30, 1995, but no
21 claim for credit or refund is allowed on or after January 1,
22 2008 for such taxes paid during the period beginning May 30,
23 2000 and ending on January 1, 2008.

24 (22) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients purchased by a

1 lessor who leases the equipment, under a lease of one year or
2 longer executed or in effect at the time the lessor would
3 otherwise be subject to the tax imposed by this Act, to a
4 hospital that has been issued an active tax exemption
5 identification number by the Department under Section 1g of the
6 Retailers' Occupation Tax Act. If the equipment is leased in a
7 manner that does not qualify for this exemption or is used in
8 any other non-exempt manner, the lessor shall be liable for the
9 tax imposed under this Act or the Service Use Tax Act, as the
10 case may be, based on the fair market value of the property at
11 the time the non-qualifying use occurs. No lessor shall collect
12 or attempt to collect an amount (however designated) that
13 purports to reimburse that lessor for the tax imposed by this
14 Act or the Service Use Tax Act, as the case may be, if the tax
15 has not been paid by the lessor. If a lessor improperly
16 collects any such amount from the lessee, the lessee shall have
17 a legal right to claim a refund of that amount from the lessor.
18 If, however, that amount is not refunded to the lessee for any
19 reason, the lessor is liable to pay that amount to the
20 Department.

21 (23) Personal property purchased by a lessor who leases the
22 property, under a lease of one year or longer executed or in
23 effect at the time the lessor would otherwise be subject to the
24 tax imposed by this Act, to a governmental body that has been
25 issued an active sales tax exemption identification number by
26 the Department under Section 1g of the Retailers' Occupation

1 Tax Act. If the property is leased in a manner that does not
2 qualify for this exemption or used in any other non-exempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Service Use Tax Act, as the case may be, based
5 on the fair market value of the property at the time the
6 non-qualifying use occurs. No lessor shall collect or attempt
7 to collect an amount (however designated) that purports to
8 reimburse that lessor for the tax imposed by this Act or the
9 Service Use Tax Act, as the case may be, if the tax has not been
10 paid by the lessor. If a lessor improperly collects any such
11 amount from the lessee, the lessee shall have a legal right to
12 claim a refund of that amount from the lessor. If, however,
13 that amount is not refunded to the lessee for any reason, the
14 lessor is liable to pay that amount to the Department.

15 (24) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is donated for
18 disaster relief to be used in a State or federally declared
19 disaster area in Illinois or bordering Illinois by a
20 manufacturer or retailer that is registered in this State to a
21 corporation, society, association, foundation, or institution
22 that has been issued a sales tax exemption identification
23 number by the Department that assists victims of the disaster
24 who reside within the declared disaster area.

25 (25) Beginning with taxable years ending on or after
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in the
2 performance of infrastructure repairs in this State, including
3 but not limited to municipal roads and streets, access roads,
4 bridges, sidewalks, waste disposal systems, water and sewer
5 line extensions, water distribution and purification
6 facilities, storm water drainage and retention facilities, and
7 sewage treatment facilities, resulting from a State or
8 federally declared disaster in Illinois or bordering Illinois
9 when such repairs are initiated on facilities located in the
10 declared disaster area within 6 months after the disaster.

11 (26) Beginning July 1, 1999, game or game birds purchased
12 at a "game breeding and hunting preserve area" as that term is
13 used in the Wildlife Code. This paragraph is exempt from the
14 provisions of Section 3-90.

15 (27) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the Department
19 to be organized and operated exclusively for educational
20 purposes. For purposes of this exemption, "a corporation,
21 limited liability company, society, association, foundation,
22 or institution organized and operated exclusively for
23 educational purposes" means all tax-supported public schools,
24 private schools that offer systematic instruction in useful
25 branches of learning by methods common to public schools and
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and
2 vocational or technical schools or institutes organized and
3 operated exclusively to provide a course of study of not less
4 than 6 weeks duration and designed to prepare individuals to
5 follow a trade or to pursue a manual, technical, mechanical,
6 industrial, business, or commercial occupation.

7 (28) Beginning January 1, 2000, personal property,
8 including food, purchased through fundraising events for the
9 benefit of a public or private elementary or secondary school,
10 a group of those schools, or one or more school districts if
11 the events are sponsored by an entity recognized by the school
12 district that consists primarily of volunteers and includes
13 parents and teachers of the school children. This paragraph
14 does not apply to fundraising events (i) for the benefit of
15 private home instruction or (ii) for which the fundraising
16 entity purchases the personal property sold at the events from
17 another individual or entity that sold the property for the
18 purpose of resale by the fundraising entity and that profits
19 from the sale to the fundraising entity. This paragraph is
20 exempt from the provisions of Section 3-90.

21 (29) Beginning January 1, 2000 and through December 31,
22 2001, new or used automatic vending machines that prepare and
23 serve hot food and beverages, including coffee, soup, and other
24 items, and replacement parts for these machines. Beginning
25 January 1, 2002 and through June 30, 2003, machines and parts
26 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the
2 gross receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 3-90.

5 (30) Beginning January 1, 2001 and through June 30, 2016,
6 food for human consumption that is to be consumed off the
7 premises where it is sold (other than alcoholic beverages, soft
8 drinks, and food that has been prepared for immediate
9 consumption) and prescription and nonprescription medicines,
10 drugs, medical appliances, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, when purchased for use by a person receiving medical
13 assistance under Article V of the Illinois Public Aid Code who
14 resides in a licensed long-term care facility, as defined in
15 the Nursing Home Care Act, or in a licensed facility as defined
16 in the ID/DD Community Care Act, the MC/DD Act, or the
17 Specialized Mental Health Rehabilitation Act of 2013.

18 (31) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, computers and communications
20 equipment utilized for any hospital purpose and equipment used
21 in the diagnosis, analysis, or treatment of hospital patients
22 purchased by a lessor who leases the equipment, under a lease
23 of one year or longer executed or in effect at the time the
24 lessor would otherwise be subject to the tax imposed by this
25 Act, to a hospital that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act. If the equipment is leased in a
2 manner that does not qualify for this exemption or is used in
3 any other nonexempt manner, the lessor shall be liable for the
4 tax imposed under this Act or the Service Use Tax Act, as the
5 case may be, based on the fair market value of the property at
6 the time the nonqualifying use occurs. No lessor shall collect
7 or attempt to collect an amount (however designated) that
8 purports to reimburse that lessor for the tax imposed by this
9 Act or the Service Use Tax Act, as the case may be, if the tax
10 has not been paid by the lessor. If a lessor improperly
11 collects any such amount from the lessee, the lessee shall have
12 a legal right to claim a refund of that amount from the lessor.
13 If, however, that amount is not refunded to the lessee for any
14 reason, the lessor is liable to pay that amount to the
15 Department. This paragraph is exempt from the provisions of
16 Section 3-90.

17 (32) Beginning on the effective date of this amendatory Act
18 of the 92nd General Assembly, personal property purchased by a
19 lessor who leases the property, under a lease of one year or
20 longer executed or in effect at the time the lessor would
21 otherwise be subject to the tax imposed by this Act, to a
22 governmental body that has been issued an active sales tax
23 exemption identification number by the Department under
24 Section 1g of the Retailers' Occupation Tax Act. If the
25 property is leased in a manner that does not qualify for this
26 exemption or used in any other nonexempt manner, the lessor

1 shall be liable for the tax imposed under this Act or the
2 Service Use Tax Act, as the case may be, based on the fair
3 market value of the property at the time the nonqualifying use
4 occurs. No lessor shall collect or attempt to collect an amount
5 (however designated) that purports to reimburse that lessor for
6 the tax imposed by this Act or the Service Use Tax Act, as the
7 case may be, if the tax has not been paid by the lessor. If a
8 lessor improperly collects any such amount from the lessee, the
9 lessee shall have a legal right to claim a refund of that
10 amount from the lessor. If, however, that amount is not
11 refunded to the lessee for any reason, the lessor is liable to
12 pay that amount to the Department. This paragraph is exempt
13 from the provisions of Section 3-90.

14 (33) On and after July 1, 2003 and through June 30, 2004,
15 the use in this State of motor vehicles of the second division
16 with a gross vehicle weight in excess of 8,000 pounds and that
17 are subject to the commercial distribution fee imposed under
18 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
19 1, 2004 and through June 30, 2005, the use in this State of
20 motor vehicles of the second division: (i) with a gross vehicle
21 weight rating in excess of 8,000 pounds; (ii) that are subject
22 to the commercial distribution fee imposed under Section
23 3-815.1 of the Illinois Vehicle Code; and (iii) that are
24 primarily used for commercial purposes. Through June 30, 2005,
25 this exemption applies to repair and replacement parts added
26 after the initial purchase of such a motor vehicle if that

1 motor vehicle is used in a manner that would qualify for the
2 rolling stock exemption otherwise provided for in this Act. For
3 purposes of this paragraph, the term "used for commercial
4 purposes" means the transportation of persons or property in
5 furtherance of any commercial or industrial enterprise,
6 whether for-hire or not.

7 (34) Beginning January 1, 2008, tangible personal property
8 used in the construction or maintenance of a community water
9 supply, as defined under Section 3.145 of the Environmental
10 Protection Act, that is operated by a not-for-profit
11 corporation that holds a valid water supply permit issued under
12 Title IV of the Environmental Protection Act. This paragraph is
13 exempt from the provisions of Section 3-90.

14 (35) Beginning January 1, 2010, materials, parts,
15 equipment, components, and furnishings incorporated into or
16 upon an aircraft as part of the modification, refurbishment,
17 completion, replacement, repair, or maintenance of the
18 aircraft. This exemption includes consumable supplies used in
19 the modification, refurbishment, completion, replacement,
20 repair, and maintenance of aircraft, but excludes any
21 materials, parts, equipment, components, and consumable
22 supplies used in the modification, replacement, repair, and
23 maintenance of aircraft engines or power plants, whether such
24 engines or power plants are installed or uninstalled upon any
25 such aircraft. "Consumable supplies" include, but are not
26 limited to, adhesive, tape, sandpaper, general purpose

1 lubricants, cleaning solution, latex gloves, and protective
2 films. This exemption applies only to the use of qualifying
3 tangible personal property by persons who modify, refurbish,
4 complete, repair, replace, or maintain aircraft and who (i)
5 hold an Air Agency Certificate and are empowered to operate an
6 approved repair station by the Federal Aviation
7 Administration, (ii) have a Class IV Rating, and (iii) conduct
8 operations in accordance with Part 145 of the Federal Aviation
9 Regulations. The exemption does not include aircraft operated
10 by a commercial air carrier providing scheduled passenger air
11 service pursuant to authority issued under Part 121 or Part 129
12 of the Federal Aviation Regulations. The changes made to this
13 paragraph (35) by Public Act 98-534 are declarative of existing
14 law.

15 (36) Tangible personal property purchased by a
16 public-facilities corporation, as described in Section
17 11-65-10 of the Illinois Municipal Code, for purposes of
18 constructing or furnishing a municipal convention hall, but
19 only if the legal title to the municipal convention hall is
20 transferred to the municipality without any further
21 consideration by or on behalf of the municipality at the time
22 of the completion of the municipal convention hall or upon the
23 retirement or redemption of any bonds or other debt instruments
24 issued by the public-facilities corporation in connection with
25 the development of the municipal convention hall. This
26 exemption includes existing public-facilities corporations as

1 provided in Section 11-65-25 of the Illinois Municipal Code.
2 This paragraph is exempt from the provisions of Section 3-90.
3 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431,
4 eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12; 98-104,
5 eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13;
6 98-534, eff. 8-23-13; 98-574, eff. 1-1-14; 98-583, eff. 1-1-14;
7 98-756, eff. 7-16-14.)

8 Section 50. The Service Use Tax Act is amended by changing
9 Sections 3-5 and 3-10 as follows:

10 (35 ILCS 110/3-5)

11 Sec. 3-5. Exemptions. Use of the following tangible
12 personal property is exempt from the tax imposed by this Act:

13 (1) Personal property purchased from a corporation,
14 society, association, foundation, institution, or
15 organization, other than a limited liability company, that is
16 organized and operated as a not-for-profit service enterprise
17 for the benefit of persons 65 years of age or older if the
18 personal property was not purchased by the enterprise for the
19 purpose of resale by the enterprise.

20 (2) Personal property purchased by a non-profit Illinois
21 county fair association for use in conducting, operating, or
22 promoting the county fair.

23 (3) Personal property purchased by a not-for-profit arts or
24 cultural organization that establishes, by proof required by

1 the Department by rule, that it has received an exemption under
2 Section 501(c)(3) of the Internal Revenue Code and that is
3 organized and operated primarily for the presentation or
4 support of arts or cultural programming, activities, or
5 services. These organizations include, but are not limited to,
6 music and dramatic arts organizations such as symphony
7 orchestras and theatrical groups, arts and cultural service
8 organizations, local arts councils, visual arts organizations,
9 and media arts organizations. On and after the effective date
10 of this amendatory Act of the 92nd General Assembly, however,
11 an entity otherwise eligible for this exemption shall not make
12 tax-free purchases unless it has an active identification
13 number issued by the Department.

14 (4) Legal tender, currency, medallions, or gold or silver
15 coinage issued by the State of Illinois, the government of the
16 United States of America, or the government of any foreign
17 country, and bullion.

18 (5) Until July 1, 2003 and beginning again on September 1,
19 2004 through August 30, 2014, graphic arts machinery and
20 equipment, including repair and replacement parts, both new and
21 used, and including that manufactured on special order or
22 purchased for lease, certified by the purchaser to be used
23 primarily for graphic arts production. Equipment includes
24 chemicals or chemicals acting as catalysts but only if the
25 chemicals or chemicals acting as catalysts effect a direct and
26 immediate change upon a graphic arts product.

1 (6) Personal property purchased from a teacher-sponsored
2 student organization affiliated with an elementary or
3 secondary school located in Illinois.

4 (7) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by the
6 purchaser to be used primarily for production agriculture or
7 State or federal agricultural programs, including individual
8 replacement parts for the machinery and equipment, including
9 machinery and equipment purchased for lease, and including
10 implements of husbandry defined in Section 1-130 of the
11 Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required to
13 be registered under Section 3-809 of the Illinois Vehicle Code,
14 but excluding other motor vehicles required to be registered
15 under the Illinois Vehicle Code. Horticultural polyhouses or
16 hoop houses used for propagating, growing, or overwintering
17 plants shall be considered farm machinery and equipment under
18 this item (7). Agricultural chemical tender tanks and dry boxes
19 shall include units sold separately from a motor vehicle
20 required to be licensed and units sold mounted on a motor
21 vehicle required to be licensed if the selling price of the
22 tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes computers,
6 sensors, software, and related equipment used primarily in the
7 computer-assisted operation of production agriculture
8 facilities, equipment, and activities such as, but not limited
9 to, the collection, monitoring, and correlation of animal and
10 crop data for the purpose of formulating animal diets and
11 agricultural chemicals. This item (7) is exempt from the
12 provisions of Section 3-75.

13 (8) Until June 30, 2013, fuel and petroleum products sold
14 to or used by an air common carrier, certified by the carrier
15 to be used for consumption, shipment, or storage in the conduct
16 of its business as an air common carrier, for a flight destined
17 for or returning from a location or locations outside the
18 United States without regard to previous or subsequent domestic
19 stopovers.

20 Beginning July 1, 2013, fuel and petroleum products sold to
21 or used by an air carrier, certified by the carrier to be used
22 for consumption, shipment, or storage in the conduct of its
23 business as an air common carrier, for a flight that (i) is
24 engaged in foreign trade or is engaged in trade between the
25 United States and any of its possessions and (ii) transports at
26 least one individual or package for hire from the city of

1 origination to the city of final destination on the same
2 aircraft, without regard to a change in the flight number of
3 that aircraft.

4 (9) Proceeds of mandatory service charges separately
5 stated on customers' bills for the purchase and consumption of
6 food and beverages acquired as an incident to the purchase of a
7 service from a serviceman, to the extent that the proceeds of
8 the service charge are in fact turned over as tips or as a
9 substitute for tips to the employees who participate directly
10 in preparing, serving, hosting or cleaning up the food or
11 beverage function with respect to which the service charge is
12 imposed.

13 (10) Until July 1, 2003, oil field exploration, drilling,
14 and production equipment, including (i) rigs and parts of rigs,
15 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
16 tubular goods, including casing and drill strings, (iii) pumps
17 and pump-jack units, (iv) storage tanks and flow lines, (v) any
18 individual replacement part for oil field exploration,
19 drilling, and production equipment, and (vi) machinery and
20 equipment purchased for lease; but excluding motor vehicles
21 required to be registered under the Illinois Vehicle Code.

22 (11) Proceeds from the sale of photoprocessing machinery
23 and equipment, including repair and replacement parts, both new
24 and used, including that manufactured on special order,
25 certified by the purchaser to be used primarily for
26 photoprocessing, and including photoprocessing machinery and

1 equipment purchased for lease.

2 (12) Coal and aggregate exploration, mining, off-highway
3 hauling, processing, maintenance, and reclamation equipment,
4 including replacement parts and equipment, and including
5 equipment purchased for lease, but excluding motor vehicles
6 required to be registered under the Illinois Vehicle Code. The
7 changes made to this Section by Public Act 97-767 apply on and
8 after July 1, 2003, but no claim for credit or refund is
9 allowed on or after August 16, 2013 (the effective date of
10 Public Act 98-456) for such taxes paid during the period
11 beginning July 1, 2003 and ending on August 16, 2013 (the
12 effective date of Public Act 98-456).

13 (13) Semen used for artificial insemination of livestock
14 for direct agricultural production.

15 (14) Horses, or interests in horses, registered with and
16 meeting the requirements of any of the Arabian Horse Club
17 Registry of America, Appaloosa Horse Club, American Quarter
18 Horse Association, United States Trotting Association, or
19 Jockey Club, as appropriate, used for purposes of breeding or
20 racing for prizes. This item (14) is exempt from the provisions
21 of Section 3-75, and the exemption provided for under this item
22 (14) applies for all periods beginning May 30, 1995, but no
23 claim for credit or refund is allowed on or after the effective
24 date of this amendatory Act of the 95th General Assembly for
25 such taxes paid during the period beginning May 30, 2000 and
26 ending on the effective date of this amendatory Act of the 95th

1 General Assembly.

2 (15) Computers and communications equipment utilized for
3 any hospital purpose and equipment used in the diagnosis,
4 analysis, or treatment of hospital patients purchased by a
5 lessor who leases the equipment, under a lease of one year or
6 longer executed or in effect at the time the lessor would
7 otherwise be subject to the tax imposed by this Act, to a
8 hospital that has been issued an active tax exemption
9 identification number by the Department under Section 1g of the
10 Retailers' Occupation Tax Act. If the equipment is leased in a
11 manner that does not qualify for this exemption or is used in
12 any other non-exempt manner, the lessor shall be liable for the
13 tax imposed under this Act or the Use Tax Act, as the case may
14 be, based on the fair market value of the property at the time
15 the non-qualifying use occurs. No lessor shall collect or
16 attempt to collect an amount (however designated) that purports
17 to reimburse that lessor for the tax imposed by this Act or the
18 Use Tax Act, as the case may be, if the tax has not been paid by
19 the lessor. If a lessor improperly collects any such amount
20 from the lessee, the lessee shall have a legal right to claim a
21 refund of that amount from the lessor. If, however, that amount
22 is not refunded to the lessee for any reason, the lessor is
23 liable to pay that amount to the Department.

24 (16) Personal property purchased by a lessor who leases the
25 property, under a lease of one year or longer executed or in
26 effect at the time the lessor would otherwise be subject to the

1 tax imposed by this Act, to a governmental body that has been
2 issued an active tax exemption identification number by the
3 Department under Section 1g of the Retailers' Occupation Tax
4 Act. If the property is leased in a manner that does not
5 qualify for this exemption or is used in any other non-exempt
6 manner, the lessor shall be liable for the tax imposed under
7 this Act or the Use Tax Act, as the case may be, based on the
8 fair market value of the property at the time the
9 non-qualifying use occurs. No lessor shall collect or attempt
10 to collect an amount (however designated) that purports to
11 reimburse that lessor for the tax imposed by this Act or the
12 Use Tax Act, as the case may be, if the tax has not been paid by
13 the lessor. If a lessor improperly collects any such amount
14 from the lessee, the lessee shall have a legal right to claim a
15 refund of that amount from the lessor. If, however, that amount
16 is not refunded to the lessee for any reason, the lessor is
17 liable to pay that amount to the Department.

18 (17) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is donated for
21 disaster relief to be used in a State or federally declared
22 disaster area in Illinois or bordering Illinois by a
23 manufacturer or retailer that is registered in this State to a
24 corporation, society, association, foundation, or institution
25 that has been issued a sales tax exemption identification
26 number by the Department that assists victims of the disaster

1 who reside within the declared disaster area.

2 (18) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is used in the
5 performance of infrastructure repairs in this State, including
6 but not limited to municipal roads and streets, access roads,
7 bridges, sidewalks, waste disposal systems, water and sewer
8 line extensions, water distribution and purification
9 facilities, storm water drainage and retention facilities, and
10 sewage treatment facilities, resulting from a State or
11 federally declared disaster in Illinois or bordering Illinois
12 when such repairs are initiated on facilities located in the
13 declared disaster area within 6 months after the disaster.

14 (19) Beginning July 1, 1999, game or game birds purchased
15 at a "game breeding and hunting preserve area" as that term is
16 used in the Wildlife Code. This paragraph is exempt from the
17 provisions of Section 3-75.

18 (20) A motor vehicle, as that term is defined in Section
19 1-146 of the Illinois Vehicle Code, that is donated to a
20 corporation, limited liability company, society, association,
21 foundation, or institution that is determined by the Department
22 to be organized and operated exclusively for educational
23 purposes. For purposes of this exemption, "a corporation,
24 limited liability company, society, association, foundation,
25 or institution organized and operated exclusively for
26 educational purposes" means all tax-supported public schools,

1 private schools that offer systematic instruction in useful
2 branches of learning by methods common to public schools and
3 that compare favorably in their scope and intensity with the
4 course of study presented in tax-supported schools, and
5 vocational or technical schools or institutes organized and
6 operated exclusively to provide a course of study of not less
7 than 6 weeks duration and designed to prepare individuals to
8 follow a trade or to pursue a manual, technical, mechanical,
9 industrial, business, or commercial occupation.

10 (21) Beginning January 1, 2000, personal property,
11 including food, purchased through fundraising events for the
12 benefit of a public or private elementary or secondary school,
13 a group of those schools, or one or more school districts if
14 the events are sponsored by an entity recognized by the school
15 district that consists primarily of volunteers and includes
16 parents and teachers of the school children. This paragraph
17 does not apply to fundraising events (i) for the benefit of
18 private home instruction or (ii) for which the fundraising
19 entity purchases the personal property sold at the events from
20 another individual or entity that sold the property for the
21 purpose of resale by the fundraising entity and that profits
22 from the sale to the fundraising entity. This paragraph is
23 exempt from the provisions of Section 3-75.

24 (22) Beginning January 1, 2000 and through December 31,
25 2001, new or used automatic vending machines that prepare and
26 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning
2 January 1, 2002 and through June 30, 2003, machines and parts
3 for machines used in commercial, coin-operated amusement and
4 vending business if a use or occupation tax is paid on the
5 gross receipts derived from the use of the commercial,
6 coin-operated amusement and vending machines. This paragraph
7 is exempt from the provisions of Section 3-75.

8 (23) Beginning August 23, 2001 and through June 30, 2016,
9 food for human consumption that is to be consumed off the
10 premises where it is sold (other than alcoholic beverages, soft
11 drinks, and food that has been prepared for immediate
12 consumption) and prescription and nonprescription medicines,
13 drugs, medical appliances, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, when purchased for use by a person receiving medical
16 assistance under Article V of the Illinois Public Aid Code who
17 resides in a licensed long-term care facility, as defined in
18 the Nursing Home Care Act, or in a licensed facility as defined
19 in the ID/DD Community Care Act, the MC/DD Act, or the
20 Specialized Mental Health Rehabilitation Act of 2013.

21 (24) Beginning on the effective date of this amendatory Act
22 of the 92nd General Assembly, computers and communications
23 equipment utilized for any hospital purpose and equipment used
24 in the diagnosis, analysis, or treatment of hospital patients
25 purchased by a lessor who leases the equipment, under a lease
26 of one year or longer executed or in effect at the time the

1 lessor would otherwise be subject to the tax imposed by this
2 Act, to a hospital that has been issued an active tax exemption
3 identification number by the Department under Section 1g of the
4 Retailers' Occupation Tax Act. If the equipment is leased in a
5 manner that does not qualify for this exemption or is used in
6 any other nonexempt manner, the lessor shall be liable for the
7 tax imposed under this Act or the Use Tax Act, as the case may
8 be, based on the fair market value of the property at the time
9 the nonqualifying use occurs. No lessor shall collect or
10 attempt to collect an amount (however designated) that purports
11 to reimburse that lessor for the tax imposed by this Act or the
12 Use Tax Act, as the case may be, if the tax has not been paid by
13 the lessor. If a lessor improperly collects any such amount
14 from the lessee, the lessee shall have a legal right to claim a
15 refund of that amount from the lessor. If, however, that amount
16 is not refunded to the lessee for any reason, the lessor is
17 liable to pay that amount to the Department. This paragraph is
18 exempt from the provisions of Section 3-75.

19 (25) Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, personal property purchased by a
21 lessor who leases the property, under a lease of one year or
22 longer executed or in effect at the time the lessor would
23 otherwise be subject to the tax imposed by this Act, to a
24 governmental body that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the property is leased in a

1 manner that does not qualify for this exemption or is used in
2 any other nonexempt manner, the lessor shall be liable for the
3 tax imposed under this Act or the Use Tax Act, as the case may
4 be, based on the fair market value of the property at the time
5 the nonqualifying use occurs. No lessor shall collect or
6 attempt to collect an amount (however designated) that purports
7 to reimburse that lessor for the tax imposed by this Act or the
8 Use Tax Act, as the case may be, if the tax has not been paid by
9 the lessor. If a lessor improperly collects any such amount
10 from the lessee, the lessee shall have a legal right to claim a
11 refund of that amount from the lessor. If, however, that amount
12 is not refunded to the lessee for any reason, the lessor is
13 liable to pay that amount to the Department. This paragraph is
14 exempt from the provisions of Section 3-75.

15 (26) Beginning January 1, 2008, tangible personal property
16 used in the construction or maintenance of a community water
17 supply, as defined under Section 3.145 of the Environmental
18 Protection Act, that is operated by a not-for-profit
19 corporation that holds a valid water supply permit issued under
20 Title IV of the Environmental Protection Act. This paragraph is
21 exempt from the provisions of Section 3-75.

22 (27) Beginning January 1, 2010, materials, parts,
23 equipment, components, and furnishings incorporated into or
24 upon an aircraft as part of the modification, refurbishment,
25 completion, replacement, repair, or maintenance of the
26 aircraft. This exemption includes consumable supplies used in

1 the modification, refurbishment, completion, replacement,
2 repair, and maintenance of aircraft, but excludes any
3 materials, parts, equipment, components, and consumable
4 supplies used in the modification, replacement, repair, and
5 maintenance of aircraft engines or power plants, whether such
6 engines or power plants are installed or uninstalled upon any
7 such aircraft. "Consumable supplies" include, but are not
8 limited to, adhesive, tape, sandpaper, general purpose
9 lubricants, cleaning solution, latex gloves, and protective
10 films. This exemption applies only to the use of qualifying
11 tangible personal property transferred incident to the
12 modification, refurbishment, completion, replacement, repair,
13 or maintenance of aircraft by persons who (i) hold an Air
14 Agency Certificate and are empowered to operate an approved
15 repair station by the Federal Aviation Administration, (ii)
16 have a Class IV Rating, and (iii) conduct operations in
17 accordance with Part 145 of the Federal Aviation Regulations.
18 The exemption does not include aircraft operated by a
19 commercial air carrier providing scheduled passenger air
20 service pursuant to authority issued under Part 121 or Part 129
21 of the Federal Aviation Regulations. The changes made to this
22 paragraph (27) by Public Act 98-534 are declarative of existing
23 law.

24 (28) Tangible personal property purchased by a
25 public-facilities corporation, as described in Section
26 11-65-10 of the Illinois Municipal Code, for purposes of

1 constructing or furnishing a municipal convention hall, but
2 only if the legal title to the municipal convention hall is
3 transferred to the municipality without any further
4 consideration by or on behalf of the municipality at the time
5 of the completion of the municipal convention hall or upon the
6 retirement or redemption of any bonds or other debt instruments
7 issued by the public-facilities corporation in connection with
8 the development of the municipal convention hall. This
9 exemption includes existing public-facilities corporations as
10 provided in Section 11-65-25 of the Illinois Municipal Code.
11 This paragraph is exempt from the provisions of Section 3-75.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431,
13 eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12; 98-104,
14 eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13;
15 98-534, eff. 8-23-13; 98-756, eff. 7-16-14.)

16 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

17 Sec. 3-10. Rate of tax. Unless otherwise provided in this
18 Section, the tax imposed by this Act is at the rate of 6.25% of
19 the selling price of tangible personal property transferred as
20 an incident to the sale of service, but, for the purpose of
21 computing this tax, in no event shall the selling price be less
22 than the cost price of the property to the serviceman.

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the
25 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of

1 the Use Tax Act, the tax is imposed at the rate of 1.25%.

2 With respect to gasohol, as defined in the Use Tax Act, the
3 tax imposed by this Act applies to (i) 70% of the selling price
4 of property transferred as an incident to the sale of service
5 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
6 of the selling price of property transferred as an incident to
7 the sale of service on or after July 1, 2003 and on or before
8 December 31, 2018, and (iii) 100% of the selling price
9 thereafter. If, at any time, however, the tax under this Act on
10 sales of gasohol, as defined in the Use Tax Act, is imposed at
11 the rate of 1.25%, then the tax imposed by this Act applies to
12 100% of the proceeds of sales of gasohol made during that time.

13 With respect to majority blended ethanol fuel, as defined
14 in the Use Tax Act, the tax imposed by this Act does not apply
15 to the selling price of property transferred as an incident to
16 the sale of service on or after July 1, 2003 and on or before
17 December 31, 2018 but applies to 100% of the selling price
18 thereafter.

19 With respect to biodiesel blends, as defined in the Use Tax
20 Act, with no less than 1% and no more than 10% biodiesel, the
21 tax imposed by this Act applies to (i) 80% of the selling price
22 of property transferred as an incident to the sale of service
23 on or after July 1, 2003 and on or before December 31, 2018 and
24 (ii) 100% of the proceeds of the selling price thereafter. If,
25 at any time, however, the tax under this Act on sales of
26 biodiesel blends, as defined in the Use Tax Act, with no less

1 than 1% and no more than 10% biodiesel is imposed at the rate
2 of 1.25%, then the tax imposed by this Act applies to 100% of
3 the proceeds of sales of biodiesel blends with no less than 1%
4 and no more than 10% biodiesel made during that time.

5 With respect to 100% biodiesel, as defined in the Use Tax
6 Act, and biodiesel blends, as defined in the Use Tax Act, with
7 more than 10% but no more than 99% biodiesel, the tax imposed
8 by this Act does not apply to the proceeds of the selling price
9 of property transferred as an incident to the sale of service
10 on or after July 1, 2003 and on or before December 31, 2018 but
11 applies to 100% of the selling price thereafter.

12 At the election of any registered serviceman made for each
13 fiscal year, sales of service in which the aggregate annual
14 cost price of tangible personal property transferred as an
15 incident to the sales of service is less than 35%, or 75% in
16 the case of servicemen transferring prescription drugs or
17 servicemen engaged in graphic arts production, of the aggregate
18 annual total gross receipts from all sales of service, the tax
19 imposed by this Act shall be based on the serviceman's cost
20 price of the tangible personal property transferred as an
21 incident to the sale of those services.

22 The tax shall be imposed at the rate of 1% on food prepared
23 for immediate consumption and transferred incident to a sale of
24 service subject to this Act or the Service Occupation Tax Act
25 by an entity licensed under the Hospital Licensing Act, the
26 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD

1 Act, the Specialized Mental Health Rehabilitation Act of 2013,
2 or the Child Care Act of 1969. The tax shall also be imposed at
3 the rate of 1% on food for human consumption that is to be
4 consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks, and food that has been
6 prepared for immediate consumption and is not otherwise
7 included in this paragraph) and prescription and
8 nonprescription medicines, drugs, medical appliances,
9 modifications to a motor vehicle for the purpose of rendering
10 it usable by a disabled person, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use. For the purposes of this Section, until September 1, 2009:
13 the term "soft drinks" means any complete, finished,
14 ready-to-use, non-alcoholic drink, whether carbonated or not,
15 including but not limited to soda water, cola, fruit juice,
16 vegetable juice, carbonated water, and all other preparations
17 commonly known as soft drinks of whatever kind or description
18 that are contained in any closed or sealed bottle, can, carton,
19 or container, regardless of size; but "soft drinks" does not
20 include coffee, tea, non-carbonated water, infant formula,
21 milk or milk products as defined in the Grade A Pasteurized
22 Milk and Milk Products Act, or drinks containing 50% or more
23 natural fruit or vegetable juice.

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "soft drinks" means non-alcoholic
26 beverages that contain natural or artificial sweeteners. "Soft

1 drinks" do not include beverages that contain milk or milk
2 products, soy, rice or similar milk substitutes, or greater
3 than 50% of vegetable or fruit juice by volume.

4 Until August 1, 2009, and notwithstanding any other
5 provisions of this Act, "food for human consumption that is to
6 be consumed off the premises where it is sold" includes all
7 food sold through a vending machine, except soft drinks and
8 food products that are dispensed hot from a vending machine,
9 regardless of the location of the vending machine. Beginning
10 August 1, 2009, and notwithstanding any other provisions of
11 this Act, "food for human consumption that is to be consumed
12 off the premises where it is sold" includes all food sold
13 through a vending machine, except soft drinks, candy, and food
14 products that are dispensed hot from a vending machine,
15 regardless of the location of the vending machine.

16 Notwithstanding any other provisions of this Act,
17 beginning September 1, 2009, "food for human consumption that
18 is to be consumed off the premises where it is sold" does not
19 include candy. For purposes of this Section, "candy" means a
20 preparation of sugar, honey, or other natural or artificial
21 sweeteners in combination with chocolate, fruits, nuts or other
22 ingredients or flavorings in the form of bars, drops, or
23 pieces. "Candy" does not include any preparation that contains
24 flour or requires refrigeration.

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "nonprescription medicines and

1 drugs" does not include grooming and hygiene products. For
2 purposes of this Section, "grooming and hygiene products"
3 includes, but is not limited to, soaps and cleaning solutions,
4 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
5 lotions and screens, unless those products are available by
6 prescription only, regardless of whether the products meet the
7 definition of "over-the-counter-drugs". For the purposes of
8 this paragraph, "over-the-counter-drug" means a drug for human
9 use that contains a label that identifies the product as a drug
10 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
11 label includes:

12 (A) A "Drug Facts" panel; or

13 (B) A statement of the "active ingredient(s)" with a
14 list of those ingredients contained in the compound,
15 substance or preparation.

16 Beginning on January 1, 2014 (the effective date of Public
17 Act 98-122), "prescription and nonprescription medicines and
18 drugs" includes medical cannabis purchased from a registered
19 dispensing organization under the Compassionate Use of Medical
20 Cannabis Pilot Program Act.

21 If the property that is acquired from a serviceman is
22 acquired outside Illinois and used outside Illinois before
23 being brought to Illinois for use here and is taxable under
24 this Act, the "selling price" on which the tax is computed
25 shall be reduced by an amount that represents a reasonable
26 allowance for depreciation for the period of prior out-of-state

1 use.

2 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,
3 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
4 eff. 7-16-14.)

5 Section 55. The Service Occupation Tax Act is amended by
6 changing Sections 3-5 and 3-10 as follows:

7 (35 ILCS 115/3-5)

8 Sec. 3-5. Exemptions. The following tangible personal
9 property is exempt from the tax imposed by this Act:

10 (1) Personal property sold by a corporation, society,
11 association, foundation, institution, or organization, other
12 than a limited liability company, that is organized and
13 operated as a not-for-profit service enterprise for the benefit
14 of persons 65 years of age or older if the personal property
15 was not purchased by the enterprise for the purpose of resale
16 by the enterprise.

17 (2) Personal property purchased by a not-for-profit
18 Illinois county fair association for use in conducting,
19 operating, or promoting the county fair.

20 (3) Personal property purchased by any not-for-profit arts
21 or cultural organization that establishes, by proof required by
22 the Department by rule, that it has received an exemption under
23 Section 501(c)(3) of the Internal Revenue Code and that is
24 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after the effective date
7 of this amendatory Act of the 92nd General Assembly, however,
8 an entity otherwise eligible for this exemption shall not make
9 tax-free purchases unless it has an active identification
10 number issued by the Department.

11 (4) Legal tender, currency, medallions, or gold or silver
12 coinage issued by the State of Illinois, the government of the
13 United States of America, or the government of any foreign
14 country, and bullion.

15 (5) Until July 1, 2003 and beginning again on September 1,
16 2004 through August 30, 2014, graphic arts machinery and
17 equipment, including repair and replacement parts, both new and
18 used, and including that manufactured on special order or
19 purchased for lease, certified by the purchaser to be used
20 primarily for graphic arts production. Equipment includes
21 chemicals or chemicals acting as catalysts but only if the
22 chemicals or chemicals acting as catalysts effect a direct and
23 immediate change upon a graphic arts product.

24 (6) Personal property sold by a teacher-sponsored student
25 organization affiliated with an elementary or secondary school
26 located in Illinois.

1 (7) Farm machinery and equipment, both new and used,
2 including that manufactured on special order, certified by the
3 purchaser to be used primarily for production agriculture or
4 State or federal agricultural programs, including individual
5 replacement parts for the machinery and equipment, including
6 machinery and equipment purchased for lease, and including
7 implements of husbandry defined in Section 1-130 of the
8 Illinois Vehicle Code, farm machinery and agricultural
9 chemical and fertilizer spreaders, and nurse wagons required to
10 be registered under Section 3-809 of the Illinois Vehicle Code,
11 but excluding other motor vehicles required to be registered
12 under the Illinois Vehicle Code. Horticultural polyhouses or
13 hoop houses used for propagating, growing, or overwintering
14 plants shall be considered farm machinery and equipment under
15 this item (7). Agricultural chemical tender tanks and dry boxes
16 shall include units sold separately from a motor vehicle
17 required to be licensed and units sold mounted on a motor
18 vehicle required to be licensed if the selling price of the
19 tender is separately stated.

20 Farm machinery and equipment shall include precision
21 farming equipment that is installed or purchased to be
22 installed on farm machinery and equipment including, but not
23 limited to, tractors, harvesters, sprayers, planters, seeders,
24 or spreaders. Precision farming equipment includes, but is not
25 limited to, soil testing sensors, computers, monitors,
26 software, global positioning and mapping systems, and other

1 such equipment.

2 Farm machinery and equipment also includes computers,
3 sensors, software, and related equipment used primarily in the
4 computer-assisted operation of production agriculture
5 facilities, equipment, and activities such as, but not limited
6 to, the collection, monitoring, and correlation of animal and
7 crop data for the purpose of formulating animal diets and
8 agricultural chemicals. This item (7) is exempt from the
9 provisions of Section 3-55.

10 (8) Until June 30, 2013, fuel and petroleum products sold
11 to or used by an air common carrier, certified by the carrier
12 to be used for consumption, shipment, or storage in the conduct
13 of its business as an air common carrier, for a flight destined
14 for or returning from a location or locations outside the
15 United States without regard to previous or subsequent domestic
16 stopovers.

17 Beginning July 1, 2013, fuel and petroleum products sold to
18 or used by an air carrier, certified by the carrier to be used
19 for consumption, shipment, or storage in the conduct of its
20 business as an air common carrier, for a flight that (i) is
21 engaged in foreign trade or is engaged in trade between the
22 United States and any of its possessions and (ii) transports at
23 least one individual or package for hire from the city of
24 origination to the city of final destination on the same
25 aircraft, without regard to a change in the flight number of
26 that aircraft.

1 (9) Proceeds of mandatory service charges separately
2 stated on customers' bills for the purchase and consumption of
3 food and beverages, to the extent that the proceeds of the
4 service charge are in fact turned over as tips or as a
5 substitute for tips to the employees who participate directly
6 in preparing, serving, hosting or cleaning up the food or
7 beverage function with respect to which the service charge is
8 imposed.

9 (10) Until July 1, 2003, oil field exploration, drilling,
10 and production equipment, including (i) rigs and parts of rigs,
11 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
12 tubular goods, including casing and drill strings, (iii) pumps
13 and pump-jack units, (iv) storage tanks and flow lines, (v) any
14 individual replacement part for oil field exploration,
15 drilling, and production equipment, and (vi) machinery and
16 equipment purchased for lease; but excluding motor vehicles
17 required to be registered under the Illinois Vehicle Code.

18 (11) Photoprocessing machinery and equipment, including
19 repair and replacement parts, both new and used, including that
20 manufactured on special order, certified by the purchaser to be
21 used primarily for photoprocessing, and including
22 photoprocessing machinery and equipment purchased for lease.

23 (12) Coal and aggregate exploration, mining, off-highway
24 hauling, processing, maintenance, and reclamation equipment,
25 including replacement parts and equipment, and including
26 equipment purchased for lease, but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code. The
2 changes made to this Section by Public Act 97-767 apply on and
3 after July 1, 2003, but no claim for credit or refund is
4 allowed on or after August 16, 2013 (the effective date of
5 Public Act 98-456) for such taxes paid during the period
6 beginning July 1, 2003 and ending on August 16, 2013 (the
7 effective date of Public Act 98-456).

8 (13) Beginning January 1, 1992 and through June 30, 2016,
9 food for human consumption that is to be consumed off the
10 premises where it is sold (other than alcoholic beverages, soft
11 drinks and food that has been prepared for immediate
12 consumption) and prescription and non-prescription medicines,
13 drugs, medical appliances, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, when purchased for use by a person receiving medical
16 assistance under Article V of the Illinois Public Aid Code who
17 resides in a licensed long-term care facility, as defined in
18 the Nursing Home Care Act, or in a licensed facility as defined
19 in the ID/DD Community Care Act, the MC/DD Act, or the
20 Specialized Mental Health Rehabilitation Act of 2013.

21 (14) Semen used for artificial insemination of livestock
22 for direct agricultural production.

23 (15) Horses, or interests in horses, registered with and
24 meeting the requirements of any of the Arabian Horse Club
25 Registry of America, Appaloosa Horse Club, American Quarter
26 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or
2 racing for prizes. This item (15) is exempt from the provisions
3 of Section 3-55, and the exemption provided for under this item
4 (15) applies for all periods beginning May 30, 1995, but no
5 claim for credit or refund is allowed on or after January 1,
6 2008 (the effective date of Public Act 95-88) for such taxes
7 paid during the period beginning May 30, 2000 and ending on
8 January 1, 2008 (the effective date of Public Act 95-88).

9 (16) Computers and communications equipment utilized for
10 any hospital purpose and equipment used in the diagnosis,
11 analysis, or treatment of hospital patients sold to a lessor
12 who leases the equipment, under a lease of one year or longer
13 executed or in effect at the time of the purchase, to a
14 hospital that has been issued an active tax exemption
15 identification number by the Department under Section 1g of the
16 Retailers' Occupation Tax Act.

17 (17) Personal property sold to a lessor who leases the
18 property, under a lease of one year or longer executed or in
19 effect at the time of the purchase, to a governmental body that
20 has been issued an active tax exemption identification number
21 by the Department under Section 1g of the Retailers' Occupation
22 Tax Act.

23 (18) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is donated for
26 disaster relief to be used in a State or federally declared

1 disaster area in Illinois or bordering Illinois by a
2 manufacturer or retailer that is registered in this State to a
3 corporation, society, association, foundation, or institution
4 that has been issued a sales tax exemption identification
5 number by the Department that assists victims of the disaster
6 who reside within the declared disaster area.

7 (19) Beginning with taxable years ending on or after
8 December 31, 1995 and ending with taxable years ending on or
9 before December 31, 2004, personal property that is used in the
10 performance of infrastructure repairs in this State, including
11 but not limited to municipal roads and streets, access roads,
12 bridges, sidewalks, waste disposal systems, water and sewer
13 line extensions, water distribution and purification
14 facilities, storm water drainage and retention facilities, and
15 sewage treatment facilities, resulting from a State or
16 federally declared disaster in Illinois or bordering Illinois
17 when such repairs are initiated on facilities located in the
18 declared disaster area within 6 months after the disaster.

19 (20) Beginning July 1, 1999, game or game birds sold at a
20 "game breeding and hunting preserve area" as that term is used
21 in the Wildlife Code. This paragraph is exempt from the
22 provisions of Section 3-55.

23 (21) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (22) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-55.

3 (23) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and other
6 items, and replacement parts for these machines. Beginning
7 January 1, 2002 and through June 30, 2003, machines and parts
8 for machines used in commercial, coin-operated amusement and
9 vending business if a use or occupation tax is paid on the
10 gross receipts derived from the use of the commercial,
11 coin-operated amusement and vending machines. This paragraph
12 is exempt from the provisions of Section 3-55.

13 (24) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, computers and communications
15 equipment utilized for any hospital purpose and equipment used
16 in the diagnosis, analysis, or treatment of hospital patients
17 sold to a lessor who leases the equipment, under a lease of one
18 year or longer executed or in effect at the time of the
19 purchase, to a hospital that has been issued an active tax
20 exemption identification number by the Department under
21 Section 1g of the Retailers' Occupation Tax Act. This paragraph
22 is exempt from the provisions of Section 3-55.

23 (25) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, personal property sold to a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of the
3 Retailers' Occupation Tax Act. This paragraph is exempt from
4 the provisions of Section 3-55.

5 (26) Beginning on January 1, 2002 and through June 30,
6 2016, tangible personal property purchased from an Illinois
7 retailer by a taxpayer engaged in centralized purchasing
8 activities in Illinois who will, upon receipt of the property
9 in Illinois, temporarily store the property in Illinois (i) for
10 the purpose of subsequently transporting it outside this State
11 for use or consumption thereafter solely outside this State or
12 (ii) for the purpose of being processed, fabricated, or
13 manufactured into, attached to, or incorporated into other
14 tangible personal property to be transported outside this State
15 and thereafter used or consumed solely outside this State. The
16 Director of Revenue shall, pursuant to rules adopted in
17 accordance with the Illinois Administrative Procedure Act,
18 issue a permit to any taxpayer in good standing with the
19 Department who is eligible for the exemption under this
20 paragraph (26). The permit issued under this paragraph (26)
21 shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (27) Beginning January 1, 2008, tangible personal property
3 used in the construction or maintenance of a community water
4 supply, as defined under Section 3.145 of the Environmental
5 Protection Act, that is operated by a not-for-profit
6 corporation that holds a valid water supply permit issued under
7 Title IV of the Environmental Protection Act. This paragraph is
8 exempt from the provisions of Section 3-55.

9 (28) Tangible personal property sold to a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt instruments
18 issued by the public-facilities corporation in connection with
19 the development of the municipal convention hall. This
20 exemption includes existing public-facilities corporations as
21 provided in Section 11-65-25 of the Illinois Municipal Code.
22 This paragraph is exempt from the provisions of Section 3-55.

23 (29) Beginning January 1, 2010, materials, parts,
24 equipment, components, and furnishings incorporated into or
25 upon an aircraft as part of the modification, refurbishment,
26 completion, replacement, repair, or maintenance of the

1 aircraft. This exemption includes consumable supplies used in
2 the modification, refurbishment, completion, replacement,
3 repair, and maintenance of aircraft, but excludes any
4 materials, parts, equipment, components, and consumable
5 supplies used in the modification, replacement, repair, and
6 maintenance of aircraft engines or power plants, whether such
7 engines or power plants are installed or uninstalled upon any
8 such aircraft. "Consumable supplies" include, but are not
9 limited to, adhesive, tape, sandpaper, general purpose
10 lubricants, cleaning solution, latex gloves, and protective
11 films. This exemption applies only to the transfer of
12 qualifying tangible personal property incident to the
13 modification, refurbishment, completion, replacement, repair,
14 or maintenance of an aircraft by persons who (i) hold an Air
15 Agency Certificate and are empowered to operate an approved
16 repair station by the Federal Aviation Administration, (ii)
17 have a Class IV Rating, and (iii) conduct operations in
18 accordance with Part 145 of the Federal Aviation Regulations.
19 The exemption does not include aircraft operated by a
20 commercial air carrier providing scheduled passenger air
21 service pursuant to authority issued under Part 121 or Part 129
22 of the Federal Aviation Regulations. The changes made to this
23 paragraph (29) by Public Act 98-534 are declarative of existing
24 law.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227,
26 eff. 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767,

1 eff. 7-9-12; 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;
2 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-756, eff.
3 7-16-14.)

4 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

5 Sec. 3-10. Rate of tax. Unless otherwise provided in this
6 Section, the tax imposed by this Act is at the rate of 6.25% of
7 the "selling price", as defined in Section 2 of the Service Use
8 Tax Act, of the tangible personal property. For the purpose of
9 computing this tax, in no event shall the "selling price" be
10 less than the cost price to the serviceman of the tangible
11 personal property transferred. The selling price of each item
12 of tangible personal property transferred as an incident of a
13 sale of service may be shown as a distinct and separate item on
14 the serviceman's billing to the service customer. If the
15 selling price is not so shown, the selling price of the
16 tangible personal property is deemed to be 50% of the
17 serviceman's entire billing to the service customer. When,
18 however, a serviceman contracts to design, develop, and produce
19 special order machinery or equipment, the tax imposed by this
20 Act shall be based on the serviceman's cost price of the
21 tangible personal property transferred incident to the
22 completion of the contract.

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the
25 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of

1 the Use Tax Act, the tax is imposed at the rate of 1.25%.

2 With respect to gasohol, as defined in the Use Tax Act, the
3 tax imposed by this Act shall apply to (i) 70% of the cost
4 price of property transferred as an incident to the sale of
5 service on or after January 1, 1990, and before July 1, 2003,
6 (ii) 80% of the selling price of property transferred as an
7 incident to the sale of service on or after July 1, 2003 and on
8 or before December 31, 2018, and (iii) 100% of the cost price
9 thereafter. If, at any time, however, the tax under this Act on
10 sales of gasohol, as defined in the Use Tax Act, is imposed at
11 the rate of 1.25%, then the tax imposed by this Act applies to
12 100% of the proceeds of sales of gasohol made during that time.

13 With respect to majority blended ethanol fuel, as defined
14 in the Use Tax Act, the tax imposed by this Act does not apply
15 to the selling price of property transferred as an incident to
16 the sale of service on or after July 1, 2003 and on or before
17 December 31, 2018 but applies to 100% of the selling price
18 thereafter.

19 With respect to biodiesel blends, as defined in the Use Tax
20 Act, with no less than 1% and no more than 10% biodiesel, the
21 tax imposed by this Act applies to (i) 80% of the selling price
22 of property transferred as an incident to the sale of service
23 on or after July 1, 2003 and on or before December 31, 2018 and
24 (ii) 100% of the proceeds of the selling price thereafter. If,
25 at any time, however, the tax under this Act on sales of
26 biodiesel blends, as defined in the Use Tax Act, with no less

1 than 1% and no more than 10% biodiesel is imposed at the rate
2 of 1.25%, then the tax imposed by this Act applies to 100% of
3 the proceeds of sales of biodiesel blends with no less than 1%
4 and no more than 10% biodiesel made during that time.

5 With respect to 100% biodiesel, as defined in the Use Tax
6 Act, and biodiesel blends, as defined in the Use Tax Act, with
7 more than 10% but no more than 99% biodiesel material, the tax
8 imposed by this Act does not apply to the proceeds of the
9 selling price of property transferred as an incident to the
10 sale of service on or after July 1, 2003 and on or before
11 December 31, 2018 but applies to 100% of the selling price
12 thereafter.

13 At the election of any registered serviceman made for each
14 fiscal year, sales of service in which the aggregate annual
15 cost price of tangible personal property transferred as an
16 incident to the sales of service is less than 35%, or 75% in
17 the case of servicemen transferring prescription drugs or
18 servicemen engaged in graphic arts production, of the aggregate
19 annual total gross receipts from all sales of service, the tax
20 imposed by this Act shall be based on the serviceman's cost
21 price of the tangible personal property transferred incident to
22 the sale of those services.

23 The tax shall be imposed at the rate of 1% on food prepared
24 for immediate consumption and transferred incident to a sale of
25 service subject to this Act or the Service Occupation Tax Act
26 by an entity licensed under the Hospital Licensing Act, the

1 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD
2 Act, the Specialized Mental Health Rehabilitation Act of 2013,
3 or the Child Care Act of 1969. The tax shall also be imposed at
4 the rate of 1% on food for human consumption that is to be
5 consumed off the premises where it is sold (other than
6 alcoholic beverages, soft drinks, and food that has been
7 prepared for immediate consumption and is not otherwise
8 included in this paragraph) and prescription and
9 nonprescription medicines, drugs, medical appliances,
10 modifications to a motor vehicle for the purpose of rendering
11 it usable by a disabled person, and insulin, urine testing
12 materials, syringes, and needles used by diabetics, for human
13 use. For the purposes of this Section, until September 1, 2009:
14 the term "soft drinks" means any complete, finished,
15 ready-to-use, non-alcoholic drink, whether carbonated or not,
16 including but not limited to soda water, cola, fruit juice,
17 vegetable juice, carbonated water, and all other preparations
18 commonly known as soft drinks of whatever kind or description
19 that are contained in any closed or sealed can, carton, or
20 container, regardless of size; but "soft drinks" does not
21 include coffee, tea, non-carbonated water, infant formula,
22 milk or milk products as defined in the Grade A Pasteurized
23 Milk and Milk Products Act, or drinks containing 50% or more
24 natural fruit or vegetable juice.

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "soft drinks" means non-alcoholic

1 beverages that contain natural or artificial sweeteners. "Soft
2 drinks" do not include beverages that contain milk or milk
3 products, soy, rice or similar milk substitutes, or greater
4 than 50% of vegetable or fruit juice by volume.

5 Until August 1, 2009, and notwithstanding any other
6 provisions of this Act, "food for human consumption that is to
7 be consumed off the premises where it is sold" includes all
8 food sold through a vending machine, except soft drinks and
9 food products that are dispensed hot from a vending machine,
10 regardless of the location of the vending machine. Beginning
11 August 1, 2009, and notwithstanding any other provisions of
12 this Act, "food for human consumption that is to be consumed
13 off the premises where it is sold" includes all food sold
14 through a vending machine, except soft drinks, candy, and food
15 products that are dispensed hot from a vending machine,
16 regardless of the location of the vending machine.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "food for human consumption that
19 is to be consumed off the premises where it is sold" does not
20 include candy. For purposes of this Section, "candy" means a
21 preparation of sugar, honey, or other natural or artificial
22 sweeteners in combination with chocolate, fruits, nuts or other
23 ingredients or flavorings in the form of bars, drops, or
24 pieces. "Candy" does not include any preparation that contains
25 flour or requires refrigeration.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "nonprescription medicines and
2 drugs" does not include grooming and hygiene products. For
3 purposes of this Section, "grooming and hygiene products"
4 includes, but is not limited to, soaps and cleaning solutions,
5 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
6 lotions and screens, unless those products are available by
7 prescription only, regardless of whether the products meet the
8 definition of "over-the-counter-drugs". For the purposes of
9 this paragraph, "over-the-counter-drug" means a drug for human
10 use that contains a label that identifies the product as a drug
11 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
12 label includes:

13 (A) A "Drug Facts" panel; or

14 (B) A statement of the "active ingredient(s)" with a
15 list of those ingredients contained in the compound,
16 substance or preparation.

17 Beginning on January 1, 2014 (the effective date of Public
18 Act 98-122), "prescription and nonprescription medicines and
19 drugs" includes medical cannabis purchased from a registered
20 dispensing organization under the Compassionate Use of Medical
21 Cannabis Pilot Program Act.

22 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,
23 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
24 eff. 7-16-14.)

25 Section 60. The Retailers' Occupation Tax Act is amended by

1 changing Section 2-5 as follows:

2 (35 ILCS 120/2-5)

3 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
4 sale of the following tangible personal property are exempt
5 from the tax imposed by this Act:

6 (1) Farm chemicals.

7 (2) Farm machinery and equipment, both new and used,
8 including that manufactured on special order, certified by the
9 purchaser to be used primarily for production agriculture or
10 State or federal agricultural programs, including individual
11 replacement parts for the machinery and equipment, including
12 machinery and equipment purchased for lease, and including
13 implements of husbandry defined in Section 1-130 of the
14 Illinois Vehicle Code, farm machinery and agricultural
15 chemical and fertilizer spreaders, and nurse wagons required to
16 be registered under Section 3-809 of the Illinois Vehicle Code,
17 but excluding other motor vehicles required to be registered
18 under the Illinois Vehicle Code. Horticultural polyhouses or
19 hoop houses used for propagating, growing, or overwintering
20 plants shall be considered farm machinery and equipment under
21 this item (2). Agricultural chemical tender tanks and dry boxes
22 shall include units sold separately from a motor vehicle
23 required to be licensed and units sold mounted on a motor
24 vehicle required to be licensed, if the selling price of the
25 tender is separately stated.

1 Farm machinery and equipment shall include precision
2 farming equipment that is installed or purchased to be
3 installed on farm machinery and equipment including, but not
4 limited to, tractors, harvesters, sprayers, planters, seeders,
5 or spreaders. Precision farming equipment includes, but is not
6 limited to, soil testing sensors, computers, monitors,
7 software, global positioning and mapping systems, and other
8 such equipment.

9 Farm machinery and equipment also includes computers,
10 sensors, software, and related equipment used primarily in the
11 computer-assisted operation of production agriculture
12 facilities, equipment, and activities such as, but not limited
13 to, the collection, monitoring, and correlation of animal and
14 crop data for the purpose of formulating animal diets and
15 agricultural chemicals. This item (2) is exempt from the
16 provisions of Section 2-70.

17 (3) Until July 1, 2003, distillation machinery and
18 equipment, sold as a unit or kit, assembled or installed by the
19 retailer, certified by the user to be used only for the
20 production of ethyl alcohol that will be used for consumption
21 as motor fuel or as a component of motor fuel for the personal
22 use of the user, and not subject to sale or resale.

23 (4) Until July 1, 2003 and beginning again September 1,
24 2004 through August 30, 2014, graphic arts machinery and
25 equipment, including repair and replacement parts, both new and
26 used, and including that manufactured on special order or

1 purchased for lease, certified by the purchaser to be used
2 primarily for graphic arts production. Equipment includes
3 chemicals or chemicals acting as catalysts but only if the
4 chemicals or chemicals acting as catalysts effect a direct and
5 immediate change upon a graphic arts product.

6 (5) A motor vehicle that is used for automobile renting, as
7 defined in the Automobile Renting Occupation and Use Tax Act.
8 This paragraph is exempt from the provisions of Section 2-70.

9 (6) Personal property sold by a teacher-sponsored student
10 organization affiliated with an elementary or secondary school
11 located in Illinois.

12 (7) Until July 1, 2003, proceeds of that portion of the
13 selling price of a passenger car the sale of which is subject
14 to the Replacement Vehicle Tax.

15 (8) Personal property sold to an Illinois county fair
16 association for use in conducting, operating, or promoting the
17 county fair.

18 (9) Personal property sold to a not-for-profit arts or
19 cultural organization that establishes, by proof required by
20 the Department by rule, that it has received an exemption under
21 Section 501(c)(3) of the Internal Revenue Code and that is
22 organized and operated primarily for the presentation or
23 support of arts or cultural programming, activities, or
24 services. These organizations include, but are not limited to,
25 music and dramatic arts organizations such as symphony
26 orchestras and theatrical groups, arts and cultural service

1 organizations, local arts councils, visual arts organizations,
2 and media arts organizations. On and after the effective date
3 of this amendatory Act of the 92nd General Assembly, however,
4 an entity otherwise eligible for this exemption shall not make
5 tax-free purchases unless it has an active identification
6 number issued by the Department.

7 (10) Personal property sold by a corporation, society,
8 association, foundation, institution, or organization, other
9 than a limited liability company, that is organized and
10 operated as a not-for-profit service enterprise for the benefit
11 of persons 65 years of age or older if the personal property
12 was not purchased by the enterprise for the purpose of resale
13 by the enterprise.

14 (11) Personal property sold to a governmental body, to a
15 corporation, society, association, foundation, or institution
16 organized and operated exclusively for charitable, religious,
17 or educational purposes, or to a not-for-profit corporation,
18 society, association, foundation, institution, or organization
19 that has no compensated officers or employees and that is
20 organized and operated primarily for the recreation of persons
21 55 years of age or older. A limited liability company may
22 qualify for the exemption under this paragraph only if the
23 limited liability company is organized and operated
24 exclusively for educational purposes. On and after July 1,
25 1987, however, no entity otherwise eligible for this exemption
26 shall make tax-free purchases unless it has an active

1 identification number issued by the Department.

2 (12) Tangible personal property sold to interstate
3 carriers for hire for use as rolling stock moving in interstate
4 commerce or to lessors under leases of one year or longer
5 executed or in effect at the time of purchase by interstate
6 carriers for hire for use as rolling stock moving in interstate
7 commerce and equipment operated by a telecommunications
8 provider, licensed as a common carrier by the Federal
9 Communications Commission, which is permanently installed in
10 or affixed to aircraft moving in interstate commerce.

11 (12-5) On and after July 1, 2003 and through June 30, 2004,
12 motor vehicles of the second division with a gross vehicle
13 weight in excess of 8,000 pounds that are subject to the
14 commercial distribution fee imposed under Section 3-815.1 of
15 the Illinois Vehicle Code. Beginning on July 1, 2004 and
16 through June 30, 2005, the use in this State of motor vehicles
17 of the second division: (i) with a gross vehicle weight rating
18 in excess of 8,000 pounds; (ii) that are subject to the
19 commercial distribution fee imposed under Section 3-815.1 of
20 the Illinois Vehicle Code; and (iii) that are primarily used
21 for commercial purposes. Through June 30, 2005, this exemption
22 applies to repair and replacement parts added after the initial
23 purchase of such a motor vehicle if that motor vehicle is used
24 in a manner that would qualify for the rolling stock exemption
25 otherwise provided for in this Act. For purposes of this
26 paragraph, "used for commercial purposes" means the

1 transportation of persons or property in furtherance of any
2 commercial or industrial enterprise whether for-hire or not.

3 (13) Proceeds from sales to owners, lessors, or shippers of
4 tangible personal property that is utilized by interstate
5 carriers for hire for use as rolling stock moving in interstate
6 commerce and equipment operated by a telecommunications
7 provider, licensed as a common carrier by the Federal
8 Communications Commission, which is permanently installed in
9 or affixed to aircraft moving in interstate commerce.

10 (14) Machinery and equipment that will be used by the
11 purchaser, or a lessee of the purchaser, primarily in the
12 process of manufacturing or assembling tangible personal
13 property for wholesale or retail sale or lease, whether the
14 sale or lease is made directly by the manufacturer or by some
15 other person, whether the materials used in the process are
16 owned by the manufacturer or some other person, or whether the
17 sale or lease is made apart from or as an incident to the
18 seller's engaging in the service occupation of producing
19 machines, tools, dies, jigs, patterns, gauges, or other similar
20 items of no commercial value on special order for a particular
21 purchaser. The exemption provided by this paragraph (14) does
22 not include machinery and equipment used in (i) the generation
23 of electricity for wholesale or retail sale; (ii) the
24 generation or treatment of natural or artificial gas for
25 wholesale or retail sale that is delivered to customers through
26 pipes, pipelines, or mains; or (iii) the treatment of water for

1 wholesale or retail sale that is delivered to customers through
2 pipes, pipelines, or mains. The provisions of Public Act 98-583
3 are declaratory of existing law as to the meaning and scope of
4 this exemption.

5 (15) Proceeds of mandatory service charges separately
6 stated on customers' bills for purchase and consumption of food
7 and beverages, to the extent that the proceeds of the service
8 charge are in fact turned over as tips or as a substitute for
9 tips to the employees who participate directly in preparing,
10 serving, hosting or cleaning up the food or beverage function
11 with respect to which the service charge is imposed.

12 (16) Petroleum products sold to a purchaser if the seller
13 is prohibited by federal law from charging tax to the
14 purchaser.

15 (17) Tangible personal property sold to a common carrier by
16 rail or motor that receives the physical possession of the
17 property in Illinois and that transports the property, or
18 shares with another common carrier in the transportation of the
19 property, out of Illinois on a standard uniform bill of lading
20 showing the seller of the property as the shipper or consignor
21 of the property to a destination outside Illinois, for use
22 outside Illinois.

23 (18) Legal tender, currency, medallions, or gold or silver
24 coinage issued by the State of Illinois, the government of the
25 United States of America, or the government of any foreign
26 country, and bullion.

1 (19) Until July 1 2003, oil field exploration, drilling,
2 and production equipment, including (i) rigs and parts of rigs,
3 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
4 tubular goods, including casing and drill strings, (iii) pumps
5 and pump-jack units, (iv) storage tanks and flow lines, (v) any
6 individual replacement part for oil field exploration,
7 drilling, and production equipment, and (vi) machinery and
8 equipment purchased for lease; but excluding motor vehicles
9 required to be registered under the Illinois Vehicle Code.

10 (20) Photoprocessing machinery and equipment, including
11 repair and replacement parts, both new and used, including that
12 manufactured on special order, certified by the purchaser to be
13 used primarily for photoprocessing, and including
14 photoprocessing machinery and equipment purchased for lease.

15 (21) Coal and aggregate exploration, mining, off-highway
16 hauling, processing, maintenance, and reclamation equipment,
17 including replacement parts and equipment, and including
18 equipment purchased for lease, but excluding motor vehicles
19 required to be registered under the Illinois Vehicle Code. The
20 changes made to this Section by Public Act 97-767 apply on and
21 after July 1, 2003, but no claim for credit or refund is
22 allowed on or after August 16, 2013 (the effective date of
23 Public Act 98-456) for such taxes paid during the period
24 beginning July 1, 2003 and ending on August 16, 2013 (the
25 effective date of Public Act 98-456).

26 (22) Until June 30, 2013, fuel and petroleum products sold

1 to or used by an air carrier, certified by the carrier to be
2 used for consumption, shipment, or storage in the conduct of
3 its business as an air common carrier, for a flight destined
4 for or returning from a location or locations outside the
5 United States without regard to previous or subsequent domestic
6 stopovers.

7 Beginning July 1, 2013, fuel and petroleum products sold to
8 or used by an air carrier, certified by the carrier to be used
9 for consumption, shipment, or storage in the conduct of its
10 business as an air common carrier, for a flight that (i) is
11 engaged in foreign trade or is engaged in trade between the
12 United States and any of its possessions and (ii) transports at
13 least one individual or package for hire from the city of
14 origination to the city of final destination on the same
15 aircraft, without regard to a change in the flight number of
16 that aircraft.

17 (23) A transaction in which the purchase order is received
18 by a florist who is located outside Illinois, but who has a
19 florist located in Illinois deliver the property to the
20 purchaser or the purchaser's donee in Illinois.

21 (24) Fuel consumed or used in the operation of ships,
22 barges, or vessels that are used primarily in or for the
23 transportation of property or the conveyance of persons for
24 hire on rivers bordering on this State if the fuel is delivered
25 by the seller to the purchaser's barge, ship, or vessel while
26 it is afloat upon that bordering river.

1 (25) Except as provided in item (25-5) of this Section, a
2 motor vehicle sold in this State to a nonresident even though
3 the motor vehicle is delivered to the nonresident in this
4 State, if the motor vehicle is not to be titled in this State,
5 and if a drive-away permit is issued to the motor vehicle as
6 provided in Section 3-603 of the Illinois Vehicle Code or if
7 the nonresident purchaser has vehicle registration plates to
8 transfer to the motor vehicle upon returning to his or her home
9 state. The issuance of the drive-away permit or having the
10 out-of-state registration plates to be transferred is prima
11 facie evidence that the motor vehicle will not be titled in
12 this State.

13 (25-5) The exemption under item (25) does not apply if the
14 state in which the motor vehicle will be titled does not allow
15 a reciprocal exemption for a motor vehicle sold and delivered
16 in that state to an Illinois resident but titled in Illinois.
17 The tax collected under this Act on the sale of a motor vehicle
18 in this State to a resident of another state that does not
19 allow a reciprocal exemption shall be imposed at a rate equal
20 to the state's rate of tax on taxable property in the state in
21 which the purchaser is a resident, except that the tax shall
22 not exceed the tax that would otherwise be imposed under this
23 Act. At the time of the sale, the purchaser shall execute a
24 statement, signed under penalty of perjury, of his or her
25 intent to title the vehicle in the state in which the purchaser
26 is a resident within 30 days after the sale and of the fact of

1 the payment to the State of Illinois of tax in an amount
2 equivalent to the state's rate of tax on taxable property in
3 his or her state of residence and shall submit the statement to
4 the appropriate tax collection agency in his or her state of
5 residence. In addition, the retailer must retain a signed copy
6 of the statement in his or her records. Nothing in this item
7 shall be construed to require the removal of the vehicle from
8 this state following the filing of an intent to title the
9 vehicle in the purchaser's state of residence if the purchaser
10 titles the vehicle in his or her state of residence within 30
11 days after the date of sale. The tax collected under this Act
12 in accordance with this item (25-5) shall be proportionately
13 distributed as if the tax were collected at the 6.25% general
14 rate imposed under this Act.

15 (25-7) Beginning on July 1, 2007, no tax is imposed under
16 this Act on the sale of an aircraft, as defined in Section 3 of
17 the Illinois Aeronautics Act, if all of the following
18 conditions are met:

19 (1) the aircraft leaves this State within 15 days after
20 the later of either the issuance of the final billing for
21 the sale of the aircraft, or the authorized approval for
22 return to service, completion of the maintenance record
23 entry, and completion of the test flight and ground test
24 for inspection, as required by 14 C.F.R. 91.407;

25 (2) the aircraft is not based or registered in this
26 State after the sale of the aircraft; and

1 (3) the seller retains in his or her books and records
2 and provides to the Department a signed and dated
3 certification from the purchaser, on a form prescribed by
4 the Department, certifying that the requirements of this
5 item (25-7) are met. The certificate must also include the
6 name and address of the purchaser, the address of the
7 location where the aircraft is to be titled or registered,
8 the address of the primary physical location of the
9 aircraft, and other information that the Department may
10 reasonably require.

11 For purposes of this item (25-7):

12 "Based in this State" means hangared, stored, or otherwise
13 used, excluding post-sale customizations as defined in this
14 Section, for 10 or more days in each 12-month period
15 immediately following the date of the sale of the aircraft.

16 "Registered in this State" means an aircraft registered
17 with the Department of Transportation, Aeronautics Division,
18 or titled or registered with the Federal Aviation
19 Administration to an address located in this State.

20 This paragraph (25-7) is exempt from the provisions of
21 Section 2-70.

22 (26) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (27) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes. This item (27) is exempt from the provisions
4 of Section 2-70, and the exemption provided for under this item
5 (27) applies for all periods beginning May 30, 1995, but no
6 claim for credit or refund is allowed on or after January 1,
7 2008 (the effective date of Public Act 95-88) for such taxes
8 paid during the period beginning May 30, 2000 and ending on
9 January 1, 2008 (the effective date of Public Act 95-88).

10 (28) Computers and communications equipment utilized for
11 any hospital purpose and equipment used in the diagnosis,
12 analysis, or treatment of hospital patients sold to a lessor
13 who leases the equipment, under a lease of one year or longer
14 executed or in effect at the time of the purchase, to a
15 hospital that has been issued an active tax exemption
16 identification number by the Department under Section 1g of
17 this Act.

18 (29) Personal property sold to a lessor who leases the
19 property, under a lease of one year or longer executed or in
20 effect at the time of the purchase, to a governmental body that
21 has been issued an active tax exemption identification number
22 by the Department under Section 1g of this Act.

23 (30) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is donated for
26 disaster relief to be used in a State or federally declared

1 disaster area in Illinois or bordering Illinois by a
2 manufacturer or retailer that is registered in this State to a
3 corporation, society, association, foundation, or institution
4 that has been issued a sales tax exemption identification
5 number by the Department that assists victims of the disaster
6 who reside within the declared disaster area.

7 (31) Beginning with taxable years ending on or after
8 December 31, 1995 and ending with taxable years ending on or
9 before December 31, 2004, personal property that is used in the
10 performance of infrastructure repairs in this State, including
11 but not limited to municipal roads and streets, access roads,
12 bridges, sidewalks, waste disposal systems, water and sewer
13 line extensions, water distribution and purification
14 facilities, storm water drainage and retention facilities, and
15 sewage treatment facilities, resulting from a State or
16 federally declared disaster in Illinois or bordering Illinois
17 when such repairs are initiated on facilities located in the
18 declared disaster area within 6 months after the disaster.

19 (32) Beginning July 1, 1999, game or game birds sold at a
20 "game breeding and hunting preserve area" as that term is used
21 in the Wildlife Code. This paragraph is exempt from the
22 provisions of Section 2-70.

23 (33) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 2-70.

3 (35) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and other
6 items, and replacement parts for these machines. Beginning
7 January 1, 2002 and through June 30, 2003, machines and parts
8 for machines used in commercial, coin-operated amusement and
9 vending business if a use or occupation tax is paid on the
10 gross receipts derived from the use of the commercial,
11 coin-operated amusement and vending machines. This paragraph
12 is exempt from the provisions of Section 2-70.

13 (35-5) Beginning August 23, 2001 and through June 30, 2016,
14 food for human consumption that is to be consumed off the
15 premises where it is sold (other than alcoholic beverages, soft
16 drinks, and food that has been prepared for immediate
17 consumption) and prescription and nonprescription medicines,
18 drugs, medical appliances, and insulin, urine testing
19 materials, syringes, and needles used by diabetics, for human
20 use, when purchased for use by a person receiving medical
21 assistance under Article V of the Illinois Public Aid Code who
22 resides in a licensed long-term care facility, as defined in
23 the Nursing Home Care Act, or a licensed facility as defined in
24 the ID/DD Community Care Act, the MC/DD Act, or the Specialized
25 Mental Health Rehabilitation Act of 2013.

26 (36) Beginning August 2, 2001, computers and

1 communications equipment utilized for any hospital purpose and
2 equipment used in the diagnosis, analysis, or treatment of
3 hospital patients sold to a lessor who leases the equipment,
4 under a lease of one year or longer executed or in effect at
5 the time of the purchase, to a hospital that has been issued an
6 active tax exemption identification number by the Department
7 under Section 1g of this Act. This paragraph is exempt from the
8 provisions of Section 2-70.

9 (37) Beginning August 2, 2001, personal property sold to a
10 lessor who leases the property, under a lease of one year or
11 longer executed or in effect at the time of the purchase, to a
12 governmental body that has been issued an active tax exemption
13 identification number by the Department under Section 1g of
14 this Act. This paragraph is exempt from the provisions of
15 Section 2-70.

16 (38) Beginning on January 1, 2002 and through June 30,
17 2016, tangible personal property purchased from an Illinois
18 retailer by a taxpayer engaged in centralized purchasing
19 activities in Illinois who will, upon receipt of the property
20 in Illinois, temporarily store the property in Illinois (i) for
21 the purpose of subsequently transporting it outside this State
22 for use or consumption thereafter solely outside this State or
23 (ii) for the purpose of being processed, fabricated, or
24 manufactured into, attached to, or incorporated into other
25 tangible personal property to be transported outside this State
26 and thereafter used or consumed solely outside this State. The

1 Director of Revenue shall, pursuant to rules adopted in
2 accordance with the Illinois Administrative Procedure Act,
3 issue a permit to any taxpayer in good standing with the
4 Department who is eligible for the exemption under this
5 paragraph (38). The permit issued under this paragraph (38)
6 shall authorize the holder, to the extent and in the manner
7 specified in the rules adopted under this Act, to purchase
8 tangible personal property from a retailer exempt from the
9 taxes imposed by this Act. Taxpayers shall maintain all
10 necessary books and records to substantiate the use and
11 consumption of all such tangible personal property outside of
12 the State of Illinois.

13 (39) Beginning January 1, 2008, tangible personal property
14 used in the construction or maintenance of a community water
15 supply, as defined under Section 3.145 of the Environmental
16 Protection Act, that is operated by a not-for-profit
17 corporation that holds a valid water supply permit issued under
18 Title IV of the Environmental Protection Act. This paragraph is
19 exempt from the provisions of Section 2-70.

20 (40) Beginning January 1, 2010, materials, parts,
21 equipment, components, and furnishings incorporated into or
22 upon an aircraft as part of the modification, refurbishment,
23 completion, replacement, repair, or maintenance of the
24 aircraft. This exemption includes consumable supplies used in
25 the modification, refurbishment, completion, replacement,
26 repair, and maintenance of aircraft, but excludes any

1 materials, parts, equipment, components, and consumable
2 supplies used in the modification, replacement, repair, and
3 maintenance of aircraft engines or power plants, whether such
4 engines or power plants are installed or uninstalled upon any
5 such aircraft. "Consumable supplies" include, but are not
6 limited to, adhesive, tape, sandpaper, general purpose
7 lubricants, cleaning solution, latex gloves, and protective
8 films. This exemption applies only to the sale of qualifying
9 tangible personal property to persons who modify, refurbish,
10 complete, replace, or maintain an aircraft and who (i) hold an
11 Air Agency Certificate and are empowered to operate an approved
12 repair station by the Federal Aviation Administration, (ii)
13 have a Class IV Rating, and (iii) conduct operations in
14 accordance with Part 145 of the Federal Aviation Regulations.
15 The exemption does not include aircraft operated by a
16 commercial air carrier providing scheduled passenger air
17 service pursuant to authority issued under Part 121 or Part 129
18 of the Federal Aviation Regulations. The changes made to this
19 paragraph (40) by Public Act 98-534 are declarative of existing
20 law.

21 (41) Tangible personal property sold to a
22 public-facilities corporation, as described in Section
23 11-65-10 of the Illinois Municipal Code, for purposes of
24 constructing or furnishing a municipal convention hall, but
25 only if the legal title to the municipal convention hall is
26 transferred to the municipality without any further

1 consideration by or on behalf of the municipality at the time
2 of the completion of the municipal convention hall or upon the
3 retirement or redemption of any bonds or other debt instruments
4 issued by the public-facilities corporation in connection with
5 the development of the municipal convention hall. This
6 exemption includes existing public-facilities corporations as
7 provided in Section 11-65-25 of the Illinois Municipal Code.
8 This paragraph is exempt from the provisions of Section 2-70.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227,
10 eff. 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767,
11 eff. 7-9-12; 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;
12 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff.
13 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14.)

14 Section 65. The Property Tax Code is amended by changing
15 Sections 15-168, 15-170, and 15-172 as follows:

16 (35 ILCS 200/15-168)

17 Sec. 15-168. Disabled persons' homestead exemption.

18 (a) Beginning with taxable year 2007, an annual homestead
19 exemption is granted to disabled persons in the amount of
20 \$2,000, except as provided in subsection (c), to be deducted
21 from the property's value as equalized or assessed by the
22 Department of Revenue. The disabled person shall receive the
23 homestead exemption upon meeting the following requirements:

24 (1) The property must be occupied as the primary

1 residence by the disabled person.

2 (2) The disabled person must be liable for paying the
3 real estate taxes on the property.

4 (3) The disabled person must be an owner of record of
5 the property or have a legal or equitable interest in the
6 property as evidenced by a written instrument. In the case
7 of a leasehold interest in property, the lease must be for
8 a single family residence.

9 A person who is disabled during the taxable year is
10 eligible to apply for this homestead exemption during that
11 taxable year. Application must be made during the application
12 period in effect for the county of residence. If a homestead
13 exemption has been granted under this Section and the person
14 awarded the exemption subsequently becomes a resident of a
15 facility licensed under the Nursing Home Care Act, the
16 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
17 ID/DD Community Care Act, or the MC/DD Act, then the exemption
18 shall continue (i) so long as the residence continues to be
19 occupied by the qualifying person's spouse or (ii) if the
20 residence remains unoccupied but is still owned by the person
21 qualified for the homestead exemption.

22 (b) For the purposes of this Section, "disabled person"
23 means a person unable to engage in any substantial gainful
24 activity by reason of a medically determinable physical or
25 mental impairment which can be expected to result in death or
26 has lasted or can be expected to last for a continuous period

1 of not less than 12 months. Disabled persons filing claims
2 under this Act shall submit proof of disability in such form
3 and manner as the Department shall by rule and regulation
4 prescribe. Proof that a claimant is eligible to receive
5 disability benefits under the Federal Social Security Act shall
6 constitute proof of disability for purposes of this Act.
7 Issuance of an Illinois Person with a Disability Identification
8 Card stating that the claimant is under a Class 2 disability,
9 as defined in Section 4A of the Illinois Identification Card
10 Act, shall constitute proof that the person named thereon is a
11 disabled person for purposes of this Act. A disabled person not
12 covered under the Federal Social Security Act and not
13 presenting an Illinois Person with a Disability Identification
14 Card stating that the claimant is under a Class 2 disability
15 shall be examined by a physician designated by the Department,
16 and his status as a disabled person determined using the same
17 standards as used by the Social Security Administration. The
18 costs of any required examination shall be borne by the
19 claimant.

20 (c) For land improved with (i) an apartment building owned
21 and operated as a cooperative or (ii) a life care facility as
22 defined under Section 2 of the Life Care Facilities Act that is
23 considered to be a cooperative, the maximum reduction from the
24 value of the property, as equalized or assessed by the
25 Department, shall be multiplied by the number of apartments or
26 units occupied by a disabled person. The disabled person shall

1 receive the homestead exemption upon meeting the following
2 requirements:

3 (1) The property must be occupied as the primary
4 residence by the disabled person.

5 (2) The disabled person must be liable by contract with
6 the owner or owners of record for paying the apportioned
7 property taxes on the property of the cooperative or life
8 care facility. In the case of a life care facility, the
9 disabled person must be liable for paying the apportioned
10 property taxes under a life care contract as defined in
11 Section 2 of the Life Care Facilities Act.

12 (3) The disabled person must be an owner of record of a
13 legal or equitable interest in the cooperative apartment
14 building. A leasehold interest does not meet this
15 requirement.

16 If a homestead exemption is granted under this subsection, the
17 cooperative association or management firm shall credit the
18 savings resulting from the exemption to the apportioned tax
19 liability of the qualifying disabled person. The chief county
20 assessment officer may request reasonable proof that the
21 association or firm has properly credited the exemption. A
22 person who willfully refuses to credit an exemption to the
23 qualified disabled person is guilty of a Class B misdemeanor.

24 (d) The chief county assessment officer shall determine the
25 eligibility of property to receive the homestead exemption
26 according to guidelines established by the Department. After a

1 person has received an exemption under this Section, an annual
2 verification of eligibility for the exemption shall be mailed
3 to the taxpayer.

4 In counties with fewer than 3,000,000 inhabitants, the
5 chief county assessment officer shall provide to each person
6 granted a homestead exemption under this Section a form to
7 designate any other person to receive a duplicate of any notice
8 of delinquency in the payment of taxes assessed and levied
9 under this Code on the person's qualifying property. The
10 duplicate notice shall be in addition to the notice required to
11 be provided to the person receiving the exemption and shall be
12 given in the manner required by this Code. The person filing
13 the request for the duplicate notice shall pay an
14 administrative fee of \$5 to the chief county assessment
15 officer. The assessment officer shall then file the executed
16 designation with the county collector, who shall issue the
17 duplicate notices as indicated by the designation. A
18 designation may be rescinded by the disabled person in the
19 manner required by the chief county assessment officer.

20 (e) A taxpayer who claims an exemption under Section 15-165
21 or 15-169 may not claim an exemption under this Section.

22 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
23 eff. 7-13-12; 97-1064, eff. 1-1-13; 98-104, eff. 7-22-13.)

24 (35 ILCS 200/15-170)

25 Sec. 15-170. Senior Citizens Homestead Exemption. An

1 annual homestead exemption limited, except as described here
2 with relation to cooperatives or life care facilities, to a
3 maximum reduction set forth below from the property's value, as
4 equalized or assessed by the Department, is granted for
5 property that is occupied as a residence by a person 65 years
6 of age or older who is liable for paying real estate taxes on
7 the property and is an owner of record of the property or has a
8 legal or equitable interest therein as evidenced by a written
9 instrument, except for a leasehold interest, other than a
10 leasehold interest of land on which a single family residence
11 is located, which is occupied as a residence by a person 65
12 years or older who has an ownership interest therein, legal,
13 equitable or as a lessee, and on which he or she is liable for
14 the payment of property taxes. Before taxable year 2004, the
15 maximum reduction shall be \$2,500 in counties with 3,000,000 or
16 more inhabitants and \$2,000 in all other counties. For taxable
17 years 2004 through 2005, the maximum reduction shall be \$3,000
18 in all counties. For taxable years 2006 and 2007, the maximum
19 reduction shall be \$3,500. For taxable years 2008 through 2011,
20 the maximum reduction is \$4,000 in all counties. For taxable
21 year 2012, the maximum reduction is \$5,000 in counties with
22 3,000,000 or more inhabitants and \$4,000 in all other counties.
23 For taxable years 2013 and thereafter, the maximum reduction is
24 \$5,000 in all counties.

25 For land improved with an apartment building owned and
26 operated as a cooperative, the maximum reduction from the value

1 of the property, as equalized by the Department, shall be
2 multiplied by the number of apartments or units occupied by a
3 person 65 years of age or older who is liable, by contract with
4 the owner or owners of record, for paying property taxes on the
5 property and is an owner of record of a legal or equitable
6 interest in the cooperative apartment building, other than a
7 leasehold interest. For land improved with a life care
8 facility, the maximum reduction from the value of the property,
9 as equalized by the Department, shall be multiplied by the
10 number of apartments or units occupied by persons 65 years of
11 age or older, irrespective of any legal, equitable, or
12 leasehold interest in the facility, who are liable, under a
13 contract with the owner or owners of record of the facility,
14 for paying property taxes on the property. In a cooperative or
15 a life care facility where a homestead exemption has been
16 granted, the cooperative association or the management firm of
17 the cooperative or facility shall credit the savings resulting
18 from that exemption only to the apportioned tax liability of
19 the owner or resident who qualified for the exemption. Any
20 person who willfully refuses to so credit the savings shall be
21 guilty of a Class B misdemeanor. Under this Section and
22 Sections 15-175, 15-176, and 15-177, "life care facility" means
23 a facility, as defined in Section 2 of the Life Care Facilities
24 Act, with which the applicant for the homestead exemption has a
25 life care contract as defined in that Act.

26 When a homestead exemption has been granted under this

1 Section and the person qualifying subsequently becomes a
2 resident of a facility licensed under the Assisted Living and
3 Shared Housing Act, the Nursing Home Care Act, the Specialized
4 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
5 Community Care Act, or the MC/DD Act, the exemption shall
6 continue so long as the residence continues to be occupied by
7 the qualifying person's spouse if the spouse is 65 years of age
8 or older, or if the residence remains unoccupied but is still
9 owned by the person qualified for the homestead exemption.

10 A person who will be 65 years of age during the current
11 assessment year shall be eligible to apply for the homestead
12 exemption during that assessment year. Application shall be
13 made during the application period in effect for the county of
14 his residence.

15 Beginning with assessment year 2003, for taxes payable in
16 2004, property that is first occupied as a residence after
17 January 1 of any assessment year by a person who is eligible
18 for the senior citizens homestead exemption under this Section
19 must be granted a pro-rata exemption for the assessment year.
20 The amount of the pro-rata exemption is the exemption allowed
21 in the county under this Section divided by 365 and multiplied
22 by the number of days during the assessment year the property
23 is occupied as a residence by a person eligible for the
24 exemption under this Section. The chief county assessment
25 officer must adopt reasonable procedures to establish
26 eligibility for this pro-rata exemption.

1 The assessor or chief county assessment officer may
2 determine the eligibility of a life care facility to receive
3 the benefits provided by this Section, by affidavit,
4 application, visual inspection, questionnaire or other
5 reasonable methods in order to insure that the tax savings
6 resulting from the exemption are credited by the management
7 firm to the apportioned tax liability of each qualifying
8 resident. The assessor may request reasonable proof that the
9 management firm has so credited the exemption.

10 The chief county assessment officer of each county with
11 less than 3,000,000 inhabitants shall provide to each person
12 allowed a homestead exemption under this Section a form to
13 designate any other person to receive a duplicate of any notice
14 of delinquency in the payment of taxes assessed and levied
15 under this Code on the property of the person receiving the
16 exemption. The duplicate notice shall be in addition to the
17 notice required to be provided to the person receiving the
18 exemption, and shall be given in the manner required by this
19 Code. The person filing the request for the duplicate notice
20 shall pay a fee of \$5 to cover administrative costs to the
21 supervisor of assessments, who shall then file the executed
22 designation with the county collector. Notwithstanding any
23 other provision of this Code to the contrary, the filing of
24 such an executed designation requires the county collector to
25 provide duplicate notices as indicated by the designation. A
26 designation may be rescinded by the person who executed such

1 designation at any time, in the manner and form required by the
2 chief county assessment officer.

3 The assessor or chief county assessment officer may
4 determine the eligibility of residential property to receive
5 the homestead exemption provided by this Section by
6 application, visual inspection, questionnaire or other
7 reasonable methods. The determination shall be made in
8 accordance with guidelines established by the Department.

9 In counties with 3,000,000 or more inhabitants, beginning
10 in taxable year 2010, each taxpayer who has been granted an
11 exemption under this Section must reapply on an annual basis.
12 The chief county assessment officer shall mail the application
13 to the taxpayer. In counties with less than 3,000,000
14 inhabitants, the county board may by resolution provide that if
15 a person has been granted a homestead exemption under this
16 Section, the person qualifying need not reapply for the
17 exemption.

18 In counties with less than 3,000,000 inhabitants, if the
19 assessor or chief county assessment officer requires annual
20 application for verification of eligibility for an exemption
21 once granted under this Section, the application shall be
22 mailed to the taxpayer.

23 The assessor or chief county assessment officer shall
24 notify each person who qualifies for an exemption under this
25 Section that the person may also qualify for deferral of real
26 estate taxes under the Senior Citizens Real Estate Tax Deferral

1 Act. The notice shall set forth the qualifications needed for
2 deferral of real estate taxes, the address and telephone number
3 of county collector, and a statement that applications for
4 deferral of real estate taxes may be obtained from the county
5 collector.

6 Notwithstanding Sections 6 and 8 of the State Mandates Act,
7 no reimbursement by the State is required for the
8 implementation of any mandate created by this Section.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-7, eff. 4-23-13; 98-104, eff. 7-22-13; 98-756,
11 eff. 7-16-14.)

12 (35 ILCS 200/15-172)

13 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
14 Exemption.

15 (a) This Section may be cited as the Senior Citizens
16 Assessment Freeze Homestead Exemption.

17 (b) As used in this Section:

18 "Applicant" means an individual who has filed an
19 application under this Section.

20 "Base amount" means the base year equalized assessed value
21 of the residence plus the first year's equalized assessed value
22 of any added improvements which increased the assessed value of
23 the residence after the base year.

24 "Base year" means the taxable year prior to the taxable
25 year for which the applicant first qualifies and applies for

1 the exemption provided that in the prior taxable year the
2 property was improved with a permanent structure that was
3 occupied as a residence by the applicant who was liable for
4 paying real property taxes on the property and who was either
5 (i) an owner of record of the property or had legal or
6 equitable interest in the property as evidenced by a written
7 instrument or (ii) had a legal or equitable interest as a
8 lessee in the parcel of property that was single family
9 residence. If in any subsequent taxable year for which the
10 applicant applies and qualifies for the exemption the equalized
11 assessed value of the residence is less than the equalized
12 assessed value in the existing base year (provided that such
13 equalized assessed value is not based on an assessed value that
14 results from a temporary irregularity in the property that
15 reduces the assessed value for one or more taxable years), then
16 that subsequent taxable year shall become the base year until a
17 new base year is established under the terms of this paragraph.
18 For taxable year 1999 only, the Chief County Assessment Officer
19 shall review (i) all taxable years for which the applicant
20 applied and qualified for the exemption and (ii) the existing
21 base year. The assessment officer shall select as the new base
22 year the year with the lowest equalized assessed value. An
23 equalized assessed value that is based on an assessed value
24 that results from a temporary irregularity in the property that
25 reduces the assessed value for one or more taxable years shall
26 not be considered the lowest equalized assessed value. The

1 selected year shall be the base year for taxable year 1999 and
2 thereafter until a new base year is established under the terms
3 of this paragraph.

4 "Chief County Assessment Officer" means the County
5 Assessor or Supervisor of Assessments of the county in which
6 the property is located.

7 "Equalized assessed value" means the assessed value as
8 equalized by the Illinois Department of Revenue.

9 "Household" means the applicant, the spouse of the
10 applicant, and all persons using the residence of the applicant
11 as their principal place of residence.

12 "Household income" means the combined income of the members
13 of a household for the calendar year preceding the taxable
14 year.

15 "Income" has the same meaning as provided in Section 3.07
16 of the Senior Citizens and Disabled Persons Property Tax Relief
17 Act, except that, beginning in assessment year 2001, "income"
18 does not include veteran's benefits.

19 "Internal Revenue Code of 1986" means the United States
20 Internal Revenue Code of 1986 or any successor law or laws
21 relating to federal income taxes in effect for the year
22 preceding the taxable year.

23 "Life care facility that qualifies as a cooperative" means
24 a facility as defined in Section 2 of the Life Care Facilities
25 Act.

26 "Maximum income limitation" means:

- 1 (1) \$35,000 prior to taxable year 1999;
- 2 (2) \$40,000 in taxable years 1999 through 2003;
- 3 (3) \$45,000 in taxable years 2004 through 2005;
- 4 (4) \$50,000 in taxable years 2006 and 2007; and
- 5 (5) \$55,000 in taxable year 2008 and thereafter.

6 "Residence" means the principal dwelling place and
7 appurtenant structures used for residential purposes in this
8 State occupied on January 1 of the taxable year by a household
9 and so much of the surrounding land, constituting the parcel
10 upon which the dwelling place is situated, as is used for
11 residential purposes. If the Chief County Assessment Officer
12 has established a specific legal description for a portion of
13 property constituting the residence, then that portion of
14 property shall be deemed the residence for the purposes of this
15 Section.

16 "Taxable year" means the calendar year during which ad
17 valorem property taxes payable in the next succeeding year are
18 levied.

19 (c) Beginning in taxable year 1994, a senior citizens
20 assessment freeze homestead exemption is granted for real
21 property that is improved with a permanent structure that is
22 occupied as a residence by an applicant who (i) is 65 years of
23 age or older during the taxable year, (ii) has a household
24 income that does not exceed the maximum income limitation,
25 (iii) is liable for paying real property taxes on the property,
26 and (iv) is an owner of record of the property or has a legal or

1 equitable interest in the property as evidenced by a written
2 instrument. This homestead exemption shall also apply to a
3 leasehold interest in a parcel of property improved with a
4 permanent structure that is a single family residence that is
5 occupied as a residence by a person who (i) is 65 years of age
6 or older during the taxable year, (ii) has a household income
7 that does not exceed the maximum income limitation, (iii) has a
8 legal or equitable ownership interest in the property as
9 lessee, and (iv) is liable for the payment of real property
10 taxes on that property.

11 In counties of 3,000,000 or more inhabitants, the amount of
12 the exemption for all taxable years is the equalized assessed
13 value of the residence in the taxable year for which
14 application is made minus the base amount. In all other
15 counties, the amount of the exemption is as follows: (i)
16 through taxable year 2005 and for taxable year 2007 and
17 thereafter, the amount of this exemption shall be the equalized
18 assessed value of the residence in the taxable year for which
19 application is made minus the base amount; and (ii) for taxable
20 year 2006, the amount of the exemption is as follows:

21 (1) For an applicant who has a household income of
22 \$45,000 or less, the amount of the exemption is the
23 equalized assessed value of the residence in the taxable
24 year for which application is made minus the base amount.

25 (2) For an applicant who has a household income
26 exceeding \$45,000 but not exceeding \$46,250, the amount of

1 the exemption is (i) the equalized assessed value of the
2 residence in the taxable year for which application is made
3 minus the base amount (ii) multiplied by 0.8.

4 (3) For an applicant who has a household income
5 exceeding \$46,250 but not exceeding \$47,500, the amount of
6 the exemption is (i) the equalized assessed value of the
7 residence in the taxable year for which application is made
8 minus the base amount (ii) multiplied by 0.6.

9 (4) For an applicant who has a household income
10 exceeding \$47,500 but not exceeding \$48,750, the amount of
11 the exemption is (i) the equalized assessed value of the
12 residence in the taxable year for which application is made
13 minus the base amount (ii) multiplied by 0.4.

14 (5) For an applicant who has a household income
15 exceeding \$48,750 but not exceeding \$50,000, the amount of
16 the exemption is (i) the equalized assessed value of the
17 residence in the taxable year for which application is made
18 minus the base amount (ii) multiplied by 0.2.

19 When the applicant is a surviving spouse of an applicant
20 for a prior year for the same residence for which an exemption
21 under this Section has been granted, the base year and base
22 amount for that residence are the same as for the applicant for
23 the prior year.

24 Each year at the time the assessment books are certified to
25 the County Clerk, the Board of Review or Board of Appeals shall
26 give to the County Clerk a list of the assessed values of

1 improvements on each parcel qualifying for this exemption that
2 were added after the base year for this parcel and that
3 increased the assessed value of the property.

4 In the case of land improved with an apartment building
5 owned and operated as a cooperative or a building that is a
6 life care facility that qualifies as a cooperative, the maximum
7 reduction from the equalized assessed value of the property is
8 limited to the sum of the reductions calculated for each unit
9 occupied as a residence by a person or persons (i) 65 years of
10 age or older, (ii) with a household income that does not exceed
11 the maximum income limitation, (iii) who is liable, by contract
12 with the owner or owners of record, for paying real property
13 taxes on the property, and (iv) who is an owner of record of a
14 legal or equitable interest in the cooperative apartment
15 building, other than a leasehold interest. In the instance of a
16 cooperative where a homestead exemption has been granted under
17 this Section, the cooperative association or its management
18 firm shall credit the savings resulting from that exemption
19 only to the apportioned tax liability of the owner who
20 qualified for the exemption. Any person who willfully refuses
21 to credit that savings to an owner who qualifies for the
22 exemption is guilty of a Class B misdemeanor.

23 When a homestead exemption has been granted under this
24 Section and an applicant then becomes a resident of a facility
25 licensed under the Assisted Living and Shared Housing Act, the
26 Nursing Home Care Act, the Specialized Mental Health

1 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
2 the MC/DD Act, the exemption shall be granted in subsequent
3 years so long as the residence (i) continues to be occupied by
4 the qualified applicant's spouse or (ii) if remaining
5 unoccupied, is still owned by the qualified applicant for the
6 homestead exemption.

7 Beginning January 1, 1997, when an individual dies who
8 would have qualified for an exemption under this Section, and
9 the surviving spouse does not independently qualify for this
10 exemption because of age, the exemption under this Section
11 shall be granted to the surviving spouse for the taxable year
12 preceding and the taxable year of the death, provided that,
13 except for age, the surviving spouse meets all other
14 qualifications for the granting of this exemption for those
15 years.

16 When married persons maintain separate residences, the
17 exemption provided for in this Section may be claimed by only
18 one of such persons and for only one residence.

19 For taxable year 1994 only, in counties having less than
20 3,000,000 inhabitants, to receive the exemption, a person shall
21 submit an application by February 15, 1995 to the Chief County
22 Assessment Officer of the county in which the property is
23 located. In counties having 3,000,000 or more inhabitants, for
24 taxable year 1994 and all subsequent taxable years, to receive
25 the exemption, a person may submit an application to the Chief
26 County Assessment Officer of the county in which the property

1 is located during such period as may be specified by the Chief
2 County Assessment Officer. The Chief County Assessment Officer
3 in counties of 3,000,000 or more inhabitants shall annually
4 give notice of the application period by mail or by
5 publication. In counties having less than 3,000,000
6 inhabitants, beginning with taxable year 1995 and thereafter,
7 to receive the exemption, a person shall submit an application
8 by July 1 of each taxable year to the Chief County Assessment
9 Officer of the county in which the property is located. A
10 county may, by ordinance, establish a date for submission of
11 applications that is different than July 1. The applicant shall
12 submit with the application an affidavit of the applicant's
13 total household income, age, marital status (and if married the
14 name and address of the applicant's spouse, if known), and
15 principal dwelling place of members of the household on January
16 1 of the taxable year. The Department shall establish, by rule,
17 a method for verifying the accuracy of affidavits filed by
18 applicants under this Section, and the Chief County Assessment
19 Officer may conduct audits of any taxpayer claiming an
20 exemption under this Section to verify that the taxpayer is
21 eligible to receive the exemption. Each application shall
22 contain or be verified by a written declaration that it is made
23 under the penalties of perjury. A taxpayer's signing a
24 fraudulent application under this Act is perjury, as defined in
25 Section 32-2 of the Criminal Code of 2012. The applications
26 shall be clearly marked as applications for the Senior Citizens

1 Assessment Freeze Homestead Exemption and must contain a notice
2 that any taxpayer who receives the exemption is subject to an
3 audit by the Chief County Assessment Officer.

4 Notwithstanding any other provision to the contrary, in
5 counties having fewer than 3,000,000 inhabitants, if an
6 applicant fails to file the application required by this
7 Section in a timely manner and this failure to file is due to a
8 mental or physical condition sufficiently severe so as to
9 render the applicant incapable of filing the application in a
10 timely manner, the Chief County Assessment Officer may extend
11 the filing deadline for a period of 30 days after the applicant
12 regains the capability to file the application, but in no case
13 may the filing deadline be extended beyond 3 months of the
14 original filing deadline. In order to receive the extension
15 provided in this paragraph, the applicant shall provide the
16 Chief County Assessment Officer with a signed statement from
17 the applicant's physician stating the nature and extent of the
18 condition, that, in the physician's opinion, the condition was
19 so severe that it rendered the applicant incapable of filing
20 the application in a timely manner, and the date on which the
21 applicant regained the capability to file the application.

22 Beginning January 1, 1998, notwithstanding any other
23 provision to the contrary, in counties having fewer than
24 3,000,000 inhabitants, if an applicant fails to file the
25 application required by this Section in a timely manner and
26 this failure to file is due to a mental or physical condition

1 sufficiently severe so as to render the applicant incapable of
2 filing the application in a timely manner, the Chief County
3 Assessment Officer may extend the filing deadline for a period
4 of 3 months. In order to receive the extension provided in this
5 paragraph, the applicant shall provide the Chief County
6 Assessment Officer with a signed statement from the applicant's
7 physician stating the nature and extent of the condition, and
8 that, in the physician's opinion, the condition was so severe
9 that it rendered the applicant incapable of filing the
10 application in a timely manner.

11 In counties having less than 3,000,000 inhabitants, if an
12 applicant was denied an exemption in taxable year 1994 and the
13 denial occurred due to an error on the part of an assessment
14 official, or his or her agent or employee, then beginning in
15 taxable year 1997 the applicant's base year, for purposes of
16 determining the amount of the exemption, shall be 1993 rather
17 than 1994. In addition, in taxable year 1997, the applicant's
18 exemption shall also include an amount equal to (i) the amount
19 of any exemption denied to the applicant in taxable year 1995
20 as a result of using 1994, rather than 1993, as the base year,
21 (ii) the amount of any exemption denied to the applicant in
22 taxable year 1996 as a result of using 1994, rather than 1993,
23 as the base year, and (iii) the amount of the exemption
24 erroneously denied for taxable year 1994.

25 For purposes of this Section, a person who will be 65 years
26 of age during the current taxable year shall be eligible to

1 apply for the homestead exemption during that taxable year.
2 Application shall be made during the application period in
3 effect for the county of his or her residence.

4 The Chief County Assessment Officer may determine the
5 eligibility of a life care facility that qualifies as a
6 cooperative to receive the benefits provided by this Section by
7 use of an affidavit, application, visual inspection,
8 questionnaire, or other reasonable method in order to insure
9 that the tax savings resulting from the exemption are credited
10 by the management firm to the apportioned tax liability of each
11 qualifying resident. The Chief County Assessment Officer may
12 request reasonable proof that the management firm has so
13 credited that exemption.

14 Except as provided in this Section, all information
15 received by the chief county assessment officer or the
16 Department from applications filed under this Section, or from
17 any investigation conducted under the provisions of this
18 Section, shall be confidential, except for official purposes or
19 pursuant to official procedures for collection of any State or
20 local tax or enforcement of any civil or criminal penalty or
21 sanction imposed by this Act or by any statute or ordinance
22 imposing a State or local tax. Any person who divulges any such
23 information in any manner, except in accordance with a proper
24 judicial order, is guilty of a Class A misdemeanor.

25 Nothing contained in this Section shall prevent the
26 Director or chief county assessment officer from publishing or

1 making available reasonable statistics concerning the
2 operation of the exemption contained in this Section in which
3 the contents of claims are grouped into aggregates in such a
4 way that information contained in any individual claim shall
5 not be disclosed.

6 (d) Each Chief County Assessment Officer shall annually
7 publish a notice of availability of the exemption provided
8 under this Section. The notice shall be published at least 60
9 days but no more than 75 days prior to the date on which the
10 application must be submitted to the Chief County Assessment
11 Officer of the county in which the property is located. The
12 notice shall appear in a newspaper of general circulation in
13 the county.

14 Notwithstanding Sections 6 and 8 of the State Mandates Act,
15 no reimbursement by the State is required for the
16 implementation of any mandate created by this Section.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-689,
18 eff. 6-14-12; 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13;
19 98-104, eff. 7-22-13.)

20 Section 70. The Regional Transportation Authority Act is
21 amended by changing Section 4.03 as follows:

22 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

23 Sec. 4.03. Taxes.

24 (a) In order to carry out any of the powers or purposes of

1 the Authority, the Board may by ordinance adopted with the
2 concurrence of 12 of the then Directors, impose throughout the
3 metropolitan region any or all of the taxes provided in this
4 Section. Except as otherwise provided in this Act, taxes
5 imposed under this Section and civil penalties imposed incident
6 thereto shall be collected and enforced by the State Department
7 of Revenue. The Department shall have the power to administer
8 and enforce the taxes and to determine all rights for refunds
9 for erroneous payments of the taxes. Nothing in this amendatory
10 Act of the 95th General Assembly is intended to invalidate any
11 taxes currently imposed by the Authority. The increased vote
12 requirements to impose a tax shall only apply to actions taken
13 after the effective date of this amendatory Act of the 95th
14 General Assembly.

15 (b) The Board may impose a public transportation tax upon
16 all persons engaged in the metropolitan region in the business
17 of selling at retail motor fuel for operation of motor vehicles
18 upon public highways. The tax shall be at a rate not to exceed
19 5% of the gross receipts from the sales of motor fuel in the
20 course of the business. As used in this Act, the term "motor
21 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
22 The Board may provide for details of the tax. The provisions of
23 any tax shall conform, as closely as may be practicable, to the
24 provisions of the Municipal Retailers Occupation Tax Act,
25 including without limitation, conformity to penalties with
26 respect to the tax imposed and as to the powers of the State

1 Department of Revenue to promulgate and enforce rules and
2 regulations relating to the administration and enforcement of
3 the provisions of the tax imposed, except that reference in the
4 Act to any municipality shall refer to the Authority and the
5 tax shall be imposed only with regard to receipts from sales of
6 motor fuel in the metropolitan region, at rates as limited by
7 this Section.

8 (c) In connection with the tax imposed under paragraph (b)
9 of this Section the Board may impose a tax upon the privilege
10 of using in the metropolitan region motor fuel for the
11 operation of a motor vehicle upon public highways, the tax to
12 be at a rate not in excess of the rate of tax imposed under
13 paragraph (b) of this Section. The Board may provide for
14 details of the tax.

15 (d) The Board may impose a motor vehicle parking tax upon
16 the privilege of parking motor vehicles at off-street parking
17 facilities in the metropolitan region at which a fee is
18 charged, and may provide for reasonable classifications in and
19 exemptions to the tax, for administration and enforcement
20 thereof and for civil penalties and refunds thereunder and may
21 provide criminal penalties thereunder, the maximum penalties
22 not to exceed the maximum criminal penalties provided in the
23 Retailers' Occupation Tax Act. The Authority may collect and
24 enforce the tax itself or by contract with any unit of local
25 government. The State Department of Revenue shall have no
26 responsibility for the collection and enforcement unless the

1 Department agrees with the Authority to undertake the
2 collection and enforcement. As used in this paragraph, the term
3 "parking facility" means a parking area or structure having
4 parking spaces for more than 2 vehicles at which motor vehicles
5 are permitted to park in return for an hourly, daily, or other
6 periodic fee, whether publicly or privately owned, but does not
7 include parking spaces on a public street, the use of which is
8 regulated by parking meters.

9 (e) The Board may impose a Regional Transportation
10 Authority Retailers' Occupation Tax upon all persons engaged in
11 the business of selling tangible personal property at retail in
12 the metropolitan region. In Cook County the tax rate shall be
13 1.25% of the gross receipts from sales of food for human
14 consumption that is to be consumed off the premises where it is
15 sold (other than alcoholic beverages, soft drinks and food that
16 has been prepared for immediate consumption) and prescription
17 and nonprescription medicines, drugs, medical appliances and
18 insulin, urine testing materials, syringes and needles used by
19 diabetics, and 1% of the gross receipts from other taxable
20 sales made in the course of that business. In DuPage, Kane,
21 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
22 of the gross receipts from all taxable sales made in the course
23 of that business. The tax imposed under this Section and all
24 civil penalties that may be assessed as an incident thereof
25 shall be collected and enforced by the State Department of
26 Revenue. The Department shall have full power to administer and

1 enforce this Section; to collect all taxes and penalties so
2 collected in the manner hereinafter provided; and to determine
3 all rights to credit memoranda arising on account of the
4 erroneous payment of tax or penalty hereunder. In the
5 administration of, and compliance with this Section, the
6 Department and persons who are subject to this Section shall
7 have the same rights, remedies, privileges, immunities, powers
8 and duties, and be subject to the same conditions,
9 restrictions, limitations, penalties, exclusions, exemptions
10 and definitions of terms, and employ the same modes of
11 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
12 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
13 therein other than the State rate of tax), 2c, 3 (except as to
14 the disposition of taxes and penalties collected), 4, 5, 5a,
15 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
16 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
17 Section 3-7 of the Uniform Penalty and Interest Act, as fully
18 as if those provisions were set forth herein.

19 Persons subject to any tax imposed under the authority
20 granted in this Section may reimburse themselves for their
21 seller's tax liability hereunder by separately stating the tax
22 as an additional charge, which charge may be stated in
23 combination in a single amount with State taxes that sellers
24 are required to collect under the Use Tax Act, under any
25 bracket schedules the Department may prescribe.

26 Whenever the Department determines that a refund should be

1 made under this Section to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the warrant to be drawn for the
4 amount specified, and to the person named, in the notification
5 from the Department. The refund shall be paid by the State
6 Treasurer out of the Regional Transportation Authority tax fund
7 established under paragraph (n) of this Section.

8 If a tax is imposed under this subsection (e), a tax shall
9 also be imposed under subsections (f) and (g) of this Section.

10 For the purpose of determining whether a tax authorized
11 under this Section is applicable, a retail sale by a producer
12 of coal or other mineral mined in Illinois, is a sale at retail
13 at the place where the coal or other mineral mined in Illinois
14 is extracted from the earth. This paragraph does not apply to
15 coal or other mineral when it is delivered or shipped by the
16 seller to the purchaser at a point outside Illinois so that the
17 sale is exempt under the Federal Constitution as a sale in
18 interstate or foreign commerce.

19 No tax shall be imposed or collected under this subsection
20 on the sale of a motor vehicle in this State to a resident of
21 another state if that motor vehicle will not be titled in this
22 State.

23 Nothing in this Section shall be construed to authorize the
24 Regional Transportation Authority to impose a tax upon the
25 privilege of engaging in any business that under the
26 Constitution of the United States may not be made the subject

1 of taxation by this State.

2 (f) If a tax has been imposed under paragraph (e), a
3 Regional Transportation Authority Service Occupation Tax shall
4 also be imposed upon all persons engaged, in the metropolitan
5 region in the business of making sales of service, who as an
6 incident to making the sales of service, transfer tangible
7 personal property within the metropolitan region, either in the
8 form of tangible personal property or in the form of real
9 estate as an incident to a sale of service. In Cook County, the
10 tax rate shall be: (1) 1.25% of the serviceman's cost price of
11 food prepared for immediate consumption and transferred
12 incident to a sale of service subject to the service occupation
13 tax by an entity licensed under the Hospital Licensing Act, the
14 Nursing Home Care Act, the Specialized Mental Health
15 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
16 the MC/DD Act that is located in the metropolitan region; (2)
17 1.25% of the selling price of food for human consumption that
18 is to be consumed off the premises where it is sold (other than
19 alcoholic beverages, soft drinks and food that has been
20 prepared for immediate consumption) and prescription and
21 nonprescription medicines, drugs, medical appliances and
22 insulin, urine testing materials, syringes and needles used by
23 diabetics; and (3) 1% of the selling price from other taxable
24 sales of tangible personal property transferred. In DuPage,
25 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%
26 of the selling price of all tangible personal property

1 transferred.

2 The tax imposed under this paragraph and all civil
3 penalties that may be assessed as an incident thereof shall be
4 collected and enforced by the State Department of Revenue. The
5 Department shall have full power to administer and enforce this
6 paragraph; to collect all taxes and penalties due hereunder; to
7 dispose of taxes and penalties collected in the manner
8 hereinafter provided; and to determine all rights to credit
9 memoranda arising on account of the erroneous payment of tax or
10 penalty hereunder. In the administration of and compliance with
11 this paragraph, the Department and persons who are subject to
12 this paragraph shall have the same rights, remedies,
13 privileges, immunities, powers and duties, and be subject to
14 the same conditions, restrictions, limitations, penalties,
15 exclusions, exemptions and definitions of terms, and employ the
16 same modes of procedure, as are prescribed in Sections 1a-1, 2,
17 2a, 3 through 3-50 (in respect to all provisions therein other
18 than the State rate of tax), 4 (except that the reference to
19 the State shall be to the Authority), 5, 7, 8 (except that the
20 jurisdiction to which the tax shall be a debt to the extent
21 indicated in that Section 8 shall be the Authority), 9 (except
22 as to the disposition of taxes and penalties collected, and
23 except that the returned merchandise credit for this tax may
24 not be taken against any State tax), 10, 11, 12 (except the
25 reference therein to Section 2b of the Retailers' Occupation
26 Tax Act), 13 (except that any reference to the State shall mean

1 the Authority), the first paragraph of Section 15, 16, 17, 18,
2 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
3 the Uniform Penalty and Interest Act, as fully as if those
4 provisions were set forth herein.

5 Persons subject to any tax imposed under the authority
6 granted in this paragraph may reimburse themselves for their
7 serviceman's tax liability hereunder by separately stating the
8 tax as an additional charge, that charge may be stated in
9 combination in a single amount with State tax that servicemen
10 are authorized to collect under the Service Use Tax Act, under
11 any bracket schedules the Department may prescribe.

12 Whenever the Department determines that a refund should be
13 made under this paragraph to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the warrant to be drawn for the
16 amount specified, and to the person named in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of the Regional Transportation Authority tax fund
19 established under paragraph (n) of this Section.

20 Nothing in this paragraph shall be construed to authorize
21 the Authority to impose a tax upon the privilege of engaging in
22 any business that under the Constitution of the United States
23 may not be made the subject of taxation by the State.

24 (g) If a tax has been imposed under paragraph (e), a tax
25 shall also be imposed upon the privilege of using in the
26 metropolitan region, any item of tangible personal property

1 that is purchased outside the metropolitan region at retail
2 from a retailer, and that is titled or registered with an
3 agency of this State's government. In Cook County the tax rate
4 shall be 1% of the selling price of the tangible personal
5 property, as "selling price" is defined in the Use Tax Act. In
6 DuPage, Kane, Lake, McHenry and Will counties the tax rate
7 shall be 0.75% of the selling price of the tangible personal
8 property, as "selling price" is defined in the Use Tax Act. The
9 tax shall be collected from persons whose Illinois address for
10 titling or registration purposes is given as being in the
11 metropolitan region. The tax shall be collected by the
12 Department of Revenue for the Regional Transportation
13 Authority. The tax must be paid to the State, or an exemption
14 determination must be obtained from the Department of Revenue,
15 before the title or certificate of registration for the
16 property may be issued. The tax or proof of exemption may be
17 transmitted to the Department by way of the State agency with
18 which, or the State officer with whom, the tangible personal
19 property must be titled or registered if the Department and the
20 State agency or State officer determine that this procedure
21 will expedite the processing of applications for title or
22 registration.

23 The Department shall have full power to administer and
24 enforce this paragraph; to collect all taxes, penalties and
25 interest due hereunder; to dispose of taxes, penalties and
26 interest collected in the manner hereinafter provided; and to

1 determine all rights to credit memoranda or refunds arising on
2 account of the erroneous payment of tax, penalty or interest
3 hereunder. In the administration of and compliance with this
4 paragraph, the Department and persons who are subject to this
5 paragraph shall have the same rights, remedies, privileges,
6 immunities, powers and duties, and be subject to the same
7 conditions, restrictions, limitations, penalties, exclusions,
8 exemptions and definitions of terms and employ the same modes
9 of procedure, as are prescribed in Sections 2 (except the
10 definition of "retailer maintaining a place of business in this
11 State"), 3 through 3-80 (except provisions pertaining to the
12 State rate of tax, and except provisions concerning collection
13 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
14 19 (except the portions pertaining to claims by retailers and
15 except the last paragraph concerning refunds), 20, 21 and 22 of
16 the Use Tax Act, and are not inconsistent with this paragraph,
17 as fully as if those provisions were set forth herein.

18 Whenever the Department determines that a refund should be
19 made under this paragraph to a claimant instead of issuing a
20 credit memorandum, the Department shall notify the State
21 Comptroller, who shall cause the order to be drawn for the
22 amount specified, and to the person named in the notification
23 from the Department. The refund shall be paid by the State
24 Treasurer out of the Regional Transportation Authority tax fund
25 established under paragraph (n) of this Section.

26 (h) The Authority may impose a replacement vehicle tax of

1 \$50 on any passenger car as defined in Section 1-157 of the
2 Illinois Vehicle Code purchased within the metropolitan region
3 by or on behalf of an insurance company to replace a passenger
4 car of an insured person in settlement of a total loss claim.
5 The tax imposed may not become effective before the first day
6 of the month following the passage of the ordinance imposing
7 the tax and receipt of a certified copy of the ordinance by the
8 Department of Revenue. The Department of Revenue shall collect
9 the tax for the Authority in accordance with Sections 3-2002
10 and 3-2003 of the Illinois Vehicle Code.

11 The Department shall immediately pay over to the State
12 Treasurer, ex officio, as trustee, all taxes collected
13 hereunder.

14 As soon as possible after the first day of each month,
15 beginning January 1, 2011, upon certification of the Department
16 of Revenue, the Comptroller shall order transferred, and the
17 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
18 local sales tax increment, as defined in the Innovation
19 Development and Economy Act, collected under this Section
20 during the second preceding calendar month for sales within a
21 STAR bond district.

22 After the monthly transfer to the STAR Bonds Revenue Fund,
23 on or before the 25th day of each calendar month, the
24 Department shall prepare and certify to the Comptroller the
25 disbursement of stated sums of money to the Authority. The
26 amount to be paid to the Authority shall be the amount

1 collected hereunder during the second preceding calendar month
2 by the Department, less any amount determined by the Department
3 to be necessary for the payment of refunds, and less any
4 amounts that are transferred to the STAR Bonds Revenue Fund.
5 Within 10 days after receipt by the Comptroller of the
6 disbursement certification to the Authority provided for in
7 this Section to be given to the Comptroller by the Department,
8 the Comptroller shall cause the orders to be drawn for that
9 amount in accordance with the directions contained in the
10 certification.

11 (i) The Board may not impose any other taxes except as it
12 may from time to time be authorized by law to impose.

13 (j) A certificate of registration issued by the State
14 Department of Revenue to a retailer under the Retailers'
15 Occupation Tax Act or under the Service Occupation Tax Act
16 shall permit the registrant to engage in a business that is
17 taxed under the tax imposed under paragraphs (b), (e), (f) or
18 (g) of this Section and no additional registration shall be
19 required under the tax. A certificate issued under the Use Tax
20 Act or the Service Use Tax Act shall be applicable with regard
21 to any tax imposed under paragraph (c) of this Section.

22 (k) The provisions of any tax imposed under paragraph (c)
23 of this Section shall conform as closely as may be practicable
24 to the provisions of the Use Tax Act, including without
25 limitation conformity as to penalties with respect to the tax
26 imposed and as to the powers of the State Department of Revenue

1 to promulgate and enforce rules and regulations relating to the
2 administration and enforcement of the provisions of the tax
3 imposed. The taxes shall be imposed only on use within the
4 metropolitan region and at rates as provided in the paragraph.

5 (l) The Board in imposing any tax as provided in paragraphs
6 (b) and (c) of this Section, shall, after seeking the advice of
7 the State Department of Revenue, provide means for retailers,
8 users or purchasers of motor fuel for purposes other than those
9 with regard to which the taxes may be imposed as provided in
10 those paragraphs to receive refunds of taxes improperly paid,
11 which provisions may be at variance with the refund provisions
12 as applicable under the Municipal Retailers Occupation Tax Act.
13 The State Department of Revenue may provide for certificates of
14 registration for users or purchasers of motor fuel for purposes
15 other than those with regard to which taxes may be imposed as
16 provided in paragraphs (b) and (c) of this Section to
17 facilitate the reporting and nontaxability of the exempt sales
18 or uses.

19 (m) Any ordinance imposing or discontinuing any tax under
20 this Section shall be adopted and a certified copy thereof
21 filed with the Department on or before June 1, whereupon the
22 Department of Revenue shall proceed to administer and enforce
23 this Section on behalf of the Regional Transportation Authority
24 as of September 1 next following such adoption and filing.
25 Beginning January 1, 1992, an ordinance or resolution imposing
26 or discontinuing the tax hereunder shall be adopted and a

1 certified copy thereof filed with the Department on or before
2 the first day of July, whereupon the Department shall proceed
3 to administer and enforce this Section as of the first day of
4 October next following such adoption and filing. Beginning
5 January 1, 1993, an ordinance or resolution imposing,
6 increasing, decreasing, or discontinuing the tax hereunder
7 shall be adopted and a certified copy thereof filed with the
8 Department, whereupon the Department shall proceed to
9 administer and enforce this Section as of the first day of the
10 first month to occur not less than 60 days following such
11 adoption and filing. Any ordinance or resolution of the
12 Authority imposing a tax under this Section and in effect on
13 August 1, 2007 shall remain in full force and effect and shall
14 be administered by the Department of Revenue under the terms
15 and conditions and rates of tax established by such ordinance
16 or resolution until the Department begins administering and
17 enforcing an increased tax under this Section as authorized by
18 this amendatory Act of the 95th General Assembly. The tax rates
19 authorized by this amendatory Act of the 95th General Assembly
20 are effective only if imposed by ordinance of the Authority.

21 (n) The State Department of Revenue shall, upon collecting
22 any taxes as provided in this Section, pay the taxes over to
23 the State Treasurer as trustee for the Authority. The taxes
24 shall be held in a trust fund outside the State Treasury. On or
25 before the 25th day of each calendar month, the State
26 Department of Revenue shall prepare and certify to the

1 Comptroller of the State of Illinois and to the Authority (i)
2 the amount of taxes collected in each County other than Cook
3 County in the metropolitan region, (ii) the amount of taxes
4 collected within the City of Chicago, and (iii) the amount
5 collected in that portion of Cook County outside of Chicago,
6 each amount less the amount necessary for the payment of
7 refunds to taxpayers located in those areas described in items
8 (i), (ii), and (iii). Within 10 days after receipt by the
9 Comptroller of the certification of the amounts, the
10 Comptroller shall cause an order to be drawn for the payment of
11 two-thirds of the amounts certified in item (i) of this
12 subsection to the Authority and one-third of the amounts
13 certified in item (i) of this subsection to the respective
14 counties other than Cook County and the amount certified in
15 items (ii) and (iii) of this subsection to the Authority.

16 In addition to the disbursement required by the preceding
17 paragraph, an allocation shall be made in July 1991 and each
18 year thereafter to the Regional Transportation Authority. The
19 allocation shall be made in an amount equal to the average
20 monthly distribution during the preceding calendar year
21 (excluding the 2 months of lowest receipts) and the allocation
22 shall include the amount of average monthly distribution from
23 the Regional Transportation Authority Occupation and Use Tax
24 Replacement Fund. The distribution made in July 1992 and each
25 year thereafter under this paragraph and the preceding
26 paragraph shall be reduced by the amount allocated and

1 disbursed under this paragraph in the preceding calendar year.
2 The Department of Revenue shall prepare and certify to the
3 Comptroller for disbursement the allocations made in
4 accordance with this paragraph.

5 (o) Failure to adopt a budget ordinance or otherwise to
6 comply with Section 4.01 of this Act or to adopt a Five-year
7 Capital Program or otherwise to comply with paragraph (b) of
8 Section 2.01 of this Act shall not affect the validity of any
9 tax imposed by the Authority otherwise in conformity with law.

10 (p) At no time shall a public transportation tax or motor
11 vehicle parking tax authorized under paragraphs (b), (c) and
12 (d) of this Section be in effect at the same time as any
13 retailers' occupation, use or service occupation tax
14 authorized under paragraphs (e), (f) and (g) of this Section is
15 in effect.

16 Any taxes imposed under the authority provided in
17 paragraphs (b), (c) and (d) shall remain in effect only until
18 the time as any tax authorized by paragraphs (e), (f) or (g) of
19 this Section are imposed and becomes effective. Once any tax
20 authorized by paragraphs (e), (f) or (g) is imposed the Board
21 may not reimpose taxes as authorized in paragraphs (b), (c) and
22 (d) of the Section unless any tax authorized by paragraphs (e),
23 (f) or (g) of this Section becomes ineffective by means other
24 than an ordinance of the Board.

25 (q) Any existing rights, remedies and obligations
26 (including enforcement by the Regional Transportation

1 Authority) arising under any tax imposed under paragraphs (b),
2 (c) or (d) of this Section shall not be affected by the
3 imposition of a tax under paragraphs (e), (f) or (g) of this
4 Section.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13.)

7 Section 75. The Alternative Health Care Delivery Act is
8 amended by changing Section 15 as follows:

9 (210 ILCS 3/15)

10 Sec. 15. License required. No health care facility or
11 program that meets the definition and scope of an alternative
12 health care model shall operate as such unless it is a
13 participant in a demonstration program under this Act and
14 licensed by the Department as an alternative health care model.
15 The provisions of this Act concerning children's
16 community-based health care centers shall not apply to any
17 facility licensed under the Hospital Licensing Act, the Nursing
18 Home Care Act, the Specialized Mental Health Rehabilitation Act
19 of 2013, the ID/DD Community Care Act, the MC/DD Act, or the
20 University of Illinois Hospital Act that provides respite care
21 services to children.

22 (Source: P.A. 97-38, eff. 6-28-11; 97-135, eff. 7-14-11;
23 97-227, eff. 1-1-12; 97-813, eff. 7-13-12; 98-629, eff.
24 1-1-15.)

1 Section 80. The Ambulatory Surgical Treatment Center Act is
2 amended by changing Section 3 as follows:

3 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

4 Sec. 3. As used in this Act, unless the context otherwise
5 requires, the following words and phrases shall have the
6 meanings ascribed to them:

7 (A) "Ambulatory surgical treatment center" means any
8 institution, place or building devoted primarily to the
9 maintenance and operation of facilities for the performance of
10 surgical procedures. "Ambulatory surgical treatment center"
11 includes any place that meets and complies with the definition
12 of an ambulatory surgical treatment center under the rules
13 adopted by the Department or any facility in which a medical or
14 surgical procedure is utilized to terminate a pregnancy,
15 irrespective of whether the facility is devoted primarily to
16 this purpose. Such facility shall not provide beds or other
17 accommodations for the overnight stay of patients; however,
18 facilities devoted exclusively to the treatment of children may
19 provide accommodations and beds for their patients for up to 23
20 hours following admission. Individual patients shall be
21 discharged in an ambulatory condition without danger to the
22 continued well being of the patients or shall be transferred to
23 a hospital.

24 The term "ambulatory surgical treatment center" does not

1 include any of the following:

2 (1) Any institution, place, building or agency
3 required to be licensed pursuant to the "Hospital Licensing
4 Act", approved July 1, 1953, as amended.

5 (2) Any person or institution required to be licensed
6 pursuant to the Nursing Home Care Act, the Specialized
7 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
8 Community Care Act, or the MC/DD Act.

9 (3) Hospitals or ambulatory surgical treatment centers
10 maintained by the State or any department or agency
11 thereof, where such department or agency has authority
12 under law to establish and enforce standards for the
13 hospitals or ambulatory surgical treatment centers under
14 its management and control.

15 (4) Hospitals or ambulatory surgical treatment centers
16 maintained by the Federal Government or agencies thereof.

17 (5) Any place, agency, clinic, or practice, public or
18 private, whether organized for profit or not, devoted
19 exclusively to the performance of dental or oral surgical
20 procedures.

21 (B) "Person" means any individual, firm, partnership,
22 corporation, company, association, or joint stock association,
23 or the legal successor thereof.

24 (C) "Department" means the Department of Public Health of
25 the State of Illinois.

26 (D) "Director" means the Director of the Department of

1 Public Health of the State of Illinois.

2 (E) "Physician" means a person licensed to practice
3 medicine in all of its branches in the State of Illinois.

4 (F) "Dentist" means a person licensed to practice dentistry
5 under the Illinois Dental Practice Act.

6 (G) "Podiatric physician" means a person licensed to
7 practice podiatry under the Podiatric Medical Practice Act of
8 1987.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-214, eff. 8-9-13; 98-1123, eff. 1-1-15.)

11 Section 85. The Assisted Living and Shared Housing Act is
12 amended by changing Sections 10, 35, 55, and 145 as follows:

13 (210 ILCS 9/10)

14 Sec. 10. Definitions. For purposes of this Act:

15 "Activities of daily living" means eating, dressing,
16 bathing, toileting, transferring, or personal hygiene.

17 "Assisted living establishment" or "establishment" means a
18 home, building, residence, or any other place where sleeping
19 accommodations are provided for at least 3 unrelated adults, at
20 least 80% of whom are 55 years of age or older and where the
21 following are provided consistent with the purposes of this
22 Act:

23 (1) services consistent with a social model that is
24 based on the premise that the resident's unit in assisted

1 living and shared housing is his or her own home;

2 (2) community-based residential care for persons who
3 need assistance with activities of daily living, including
4 personal, supportive, and intermittent health-related
5 services available 24 hours per day, if needed, to meet the
6 scheduled and unscheduled needs of a resident;

7 (3) mandatory services, whether provided directly by
8 the establishment or by another entity arranged for by the
9 establishment, with the consent of the resident or
10 resident's representative; and

11 (4) a physical environment that is a homelike setting
12 that includes the following and such other elements as
13 established by the Department: individual living units
14 each of which shall accommodate small kitchen appliances
15 and contain private bathing, washing, and toilet
16 facilities, or private washing and toilet facilities with a
17 common bathing room readily accessible to each resident.
18 Units shall be maintained for single occupancy except in
19 cases in which 2 residents choose to share a unit.
20 Sufficient common space shall exist to permit individual
21 and group activities.

22 "Assisted living establishment" or "establishment" does
23 not mean any of the following:

24 (1) A home, institution, or similar place operated by
25 the federal government or the State of Illinois.

26 (2) A long term care facility licensed under the

1 Nursing Home Care Act, a facility licensed under the
2 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ a
3 facility licensed under the ID/DD Community Care Act, or a
4 facility licensed under the MC/DD Act. However, a facility
5 licensed under any ~~either~~ of those Acts may convert
6 distinct parts of the facility to assisted living. If the
7 facility elects to do so, the facility shall retain the
8 Certificate of Need for its nursing and sheltered care beds
9 that were converted.

10 (3) A hospital, sanitarium, or other institution, the
11 principal activity or business of which is the diagnosis,
12 care, and treatment of human illness and that is required
13 to be licensed under the Hospital Licensing Act.

14 (4) A facility for child care as defined in the Child
15 Care Act of 1969.

16 (5) A community living facility as defined in the
17 Community Living Facilities Licensing Act.

18 (6) A nursing home or sanitarium operated solely by and
19 for persons who rely exclusively upon treatment by
20 spiritual means through prayer in accordance with the creed
21 or tenants of a well-recognized church or religious
22 denomination.

23 (7) A facility licensed by the Department of Human
24 Services as a community-integrated living arrangement as
25 defined in the Community-Integrated Living Arrangements
26 Licensure and Certification Act.

1 (8) A supportive residence licensed under the
2 Supportive Residences Licensing Act.

3 (9) The portion of a life care facility as defined in
4 the Life Care Facilities Act not licensed as an assisted
5 living establishment under this Act; a life care facility
6 may apply under this Act to convert sections of the
7 community to assisted living.

8 (10) A free-standing hospice facility licensed under
9 the Hospice Program Licensing Act.

10 (11) A shared housing establishment.

11 (12) A supportive living facility as described in
12 Section 5-5.01a of the Illinois Public Aid Code.

13 "Department" means the Department of Public Health.

14 "Director" means the Director of Public Health.

15 "Emergency situation" means imminent danger of death or
16 serious physical harm to a resident of an establishment.

17 "License" means any of the following types of licenses
18 issued to an applicant or licensee by the Department:

19 (1) "Probationary license" means a license issued to an
20 applicant or licensee that has not held a license under
21 this Act prior to its application or pursuant to a license
22 transfer in accordance with Section 50 of this Act.

23 (2) "Regular license" means a license issued by the
24 Department to an applicant or licensee that is in
25 substantial compliance with this Act and any rules
26 promulgated under this Act.

1 "Licensee" means a person, agency, association,
2 corporation, partnership, or organization that has been issued
3 a license to operate an assisted living or shared housing
4 establishment.

5 "Licensed health care professional" means a registered
6 professional nurse, an advanced practice nurse, a physician
7 assistant, and a licensed practical nurse.

8 "Mandatory services" include the following:

9 (1) 3 meals per day available to the residents prepared
10 by the establishment or an outside contractor;

11 (2) housekeeping services including, but not limited
12 to, vacuuming, dusting, and cleaning the resident's unit;

13 (3) personal laundry and linen services available to
14 the residents provided or arranged for by the
15 establishment;

16 (4) security provided 24 hours each day including, but
17 not limited to, locked entrances or building or contract
18 security personnel;

19 (5) an emergency communication response system, which
20 is a procedure in place 24 hours each day by which a
21 resident can notify building management, an emergency
22 response vendor, or others able to respond to his or her
23 need for assistance; and

24 (6) assistance with activities of daily living as
25 required by each resident.

26 "Negotiated risk" is the process by which a resident, or

1 his or her representative, may formally negotiate with
2 providers what risks each are willing and unwilling to assume
3 in service provision and the resident's living environment. The
4 provider assures that the resident and the resident's
5 representative, if any, are informed of the risks of these
6 decisions and of the potential consequences of assuming these
7 risks.

8 "Owner" means the individual, partnership, corporation,
9 association, or other person who owns an assisted living or
10 shared housing establishment. In the event an assisted living
11 or shared housing establishment is operated by a person who
12 leases or manages the physical plant, which is owned by another
13 person, "owner" means the person who operates the assisted
14 living or shared housing establishment, except that if the
15 person who owns the physical plant is an affiliate of the
16 person who operates the assisted living or shared housing
17 establishment and has significant control over the day to day
18 operations of the assisted living or shared housing
19 establishment, the person who owns the physical plant shall
20 incur jointly and severally with the owner all liabilities
21 imposed on an owner under this Act.

22 "Physician" means a person licensed under the Medical
23 Practice Act of 1987 to practice medicine in all of its
24 branches.

25 "Resident" means a person residing in an assisted living or
26 shared housing establishment.

1 "Resident's representative" means a person, other than the
2 owner, agent, or employee of an establishment or of the health
3 care provider unless related to the resident, designated in
4 writing by a resident to be his or her representative. This
5 designation may be accomplished through the Illinois Power of
6 Attorney Act, pursuant to the guardianship process under the
7 Probate Act of 1975, or pursuant to an executed designation of
8 representative form specified by the Department.

9 "Self" means the individual or the individual's designated
10 representative.

11 "Shared housing establishment" or "establishment" means a
12 publicly or privately operated free-standing residence for 16
13 or fewer persons, at least 80% of whom are 55 years of age or
14 older and who are unrelated to the owners and one manager of
15 the residence, where the following are provided:

16 (1) services consistent with a social model that is
17 based on the premise that the resident's unit is his or her
18 own home;

19 (2) community-based residential care for persons who
20 need assistance with activities of daily living, including
21 housing and personal, supportive, and intermittent
22 health-related services available 24 hours per day, if
23 needed, to meet the scheduled and unscheduled needs of a
24 resident; and

25 (3) mandatory services, whether provided directly by
26 the establishment or by another entity arranged for by the

1 establishment, with the consent of the resident or the
2 resident's representative.

3 "Shared housing establishment" or "establishment" does not
4 mean any of the following:

5 (1) A home, institution, or similar place operated by
6 the federal government or the State of Illinois.

7 (2) A long term care facility licensed under the
8 Nursing Home Care Act, a facility licensed under the
9 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ a
10 facility licensed under the ID/DD Community Care Act, or a
11 facility licensed under the MC/DD Act. A facility licensed
12 under any ~~either~~ of those Acts may, however, convert
13 sections of the facility to assisted living. If the
14 facility elects to do so, the facility shall retain the
15 Certificate of Need for its nursing beds that were
16 converted.

17 (3) A hospital, sanitarium, or other institution, the
18 principal activity or business of which is the diagnosis,
19 care, and treatment of human illness and that is required
20 to be licensed under the Hospital Licensing Act.

21 (4) A facility for child care as defined in the Child
22 Care Act of 1969.

23 (5) A community living facility as defined in the
24 Community Living Facilities Licensing Act.

25 (6) A nursing home or sanitarium operated solely by and
26 for persons who rely exclusively upon treatment by

1 spiritual means through prayer in accordance with the creed
2 or tenants of a well-recognized church or religious
3 denomination.

4 (7) A facility licensed by the Department of Human
5 Services as a community-integrated living arrangement as
6 defined in the Community-Integrated Living Arrangements
7 Licensure and Certification Act.

8 (8) A supportive residence licensed under the
9 Supportive Residences Licensing Act.

10 (9) A life care facility as defined in the Life Care
11 Facilities Act; a life care facility may apply under this
12 Act to convert sections of the community to assisted
13 living.

14 (10) A free-standing hospice facility licensed under
15 the Hospice Program Licensing Act.

16 (11) An assisted living establishment.

17 (12) A supportive living facility as described in
18 Section 5-5.01a of the Illinois Public Aid Code.

19 "Total assistance" means that staff or another individual
20 performs the entire activity of daily living without
21 participation by the resident.

22 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
23 eff. 7-13-12; 98-104, eff. 7-22-13.)

24 (210 ILCS 9/35)

25 Sec. 35. Issuance of license.

1 (a) Upon receipt and review of an application for a license
2 and review of the applicant establishment, the Director may
3 issue a license if he or she finds:

4 (1) that the individual applicant, or the corporation,
5 partnership, or other entity if the applicant is not an
6 individual, is a person responsible and suitable to operate
7 or to direct or participate in the operation of an
8 establishment by virtue of financial capacity, appropriate
9 business or professional experience, a record of lawful
10 compliance with lawful orders of the Department and lack of
11 revocation of a license issued under this Act, the Nursing
12 Home Care Act, the Specialized Mental Health
13 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
14 Act, or the MC/DD Act during the previous 5 years;

15 (2) that the establishment is under the supervision of
16 a full-time director who is at least 21 years of age and
17 has a high school diploma or equivalent plus either:

18 (A) 2 years of management experience or 2 years of
19 experience in positions of progressive responsibility
20 in health care, housing with services, or adult day
21 care or providing similar services to the elderly; or

22 (B) 2 years of management experience or 2 years of
23 experience in positions of progressive responsibility
24 in hospitality and training in health care and housing
25 with services management as defined by rule;

26 (3) that the establishment has staff sufficient in

1 number with qualifications, adequate skills, education,
2 and experience to meet the 24 hour scheduled and
3 unscheduled needs of residents and who participate in
4 ongoing training to serve the resident population;

5 (4) that all employees who are subject to the Health
6 Care Worker Background Check Act meet the requirements of
7 that Act;

8 (5) that the applicant is in substantial compliance
9 with this Act and such other requirements for a license as
10 the Department by rule may establish under this Act;

11 (6) that the applicant pays all required fees;

12 (7) that the applicant has provided to the Department
13 an accurate disclosure document in accordance with the
14 Alzheimer's Disease and Related Dementias Special Care
15 Disclosure Act and in substantial compliance with Section
16 150 of this Act.

17 In addition to any other requirements set forth in this
18 Act, as a condition of licensure under this Act, the director
19 of an establishment must participate in at least 20 hours of
20 training every 2 years to assist him or her in better meeting
21 the needs of the residents of the establishment and managing
22 the operation of the establishment.

23 Any license issued by the Director shall state the physical
24 location of the establishment, the date the license was issued,
25 and the expiration date. All licenses shall be valid for one
26 year, except as provided in Sections 40 and 45. Each license

1 shall be issued only for the premises and persons named in the
2 application, and shall not be transferable or assignable.

3 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
4 eff. 7-13-12; 98-104, eff. 7-22-13.)

5 (210 ILCS 9/55)

6 Sec. 55. Grounds for denial of a license. An application
7 for a license may be denied for any of the following reasons:

8 (1) failure to meet any of the standards set forth in
9 this Act or by rules adopted by the Department under this
10 Act;

11 (2) conviction of the applicant, or if the applicant is
12 a firm, partnership, or association, of any of its members,
13 or if a corporation, the conviction of the corporation or
14 any of its officers or stockholders, or of the person
15 designated to manage or supervise the establishment, of a
16 felony or of 2 or more misdemeanors involving moral
17 turpitude during the previous 5 years as shown by a
18 certified copy of the record of the court of conviction;

19 (3) personnel insufficient in number or unqualified by
20 training or experience to properly care for the residents;

21 (4) insufficient financial or other resources to
22 operate and conduct the establishment in accordance with
23 standards adopted by the Department under this Act;

24 (5) revocation of a license during the previous 5
25 years, if such prior license was issued to the individual

1 applicant, a controlling owner or controlling combination
2 of owners of the applicant; or any affiliate of the
3 individual applicant or controlling owner of the applicant
4 and such individual applicant, controlling owner of the
5 applicant or affiliate of the applicant was a controlling
6 owner of the prior license; provided, however, that the
7 denial of an application for a license pursuant to this
8 Section must be supported by evidence that the prior
9 revocation renders the applicant unqualified or incapable
10 of meeting or maintaining an establishment in accordance
11 with the standards and rules adopted by the Department
12 under this Act; or

13 (6) the establishment is not under the direct
14 supervision of a full-time director, as defined by rule.

15 The Department shall deny an application for a license if 6
16 months after submitting its initial application the applicant
17 has not provided the Department with all of the information
18 required for review and approval or the applicant is not
19 actively pursuing the processing of its application. In
20 addition, the Department shall determine whether the applicant
21 has violated any provision of the Nursing Home Care Act, the
22 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
23 ID/DD Community Care Act, or the MC/DD Act.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 (210 ILCS 9/145)

2 Sec. 145. Conversion of facilities. Entities licensed as
3 facilities under the Nursing Home Care Act, the Specialized
4 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
5 Community Care Act, or the MC/DD Act may elect to convert to a
6 license under this Act. Any facility that chooses to convert,
7 in whole or in part, shall follow the requirements in the
8 Nursing Home Care Act, the Specialized Mental Health
9 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
10 the MC/DD Act, as applicable, and rules promulgated under those
11 Acts regarding voluntary closure and notice to residents. Any
12 conversion of existing beds licensed under the Nursing Home
13 Care Act, the Specialized Mental Health Rehabilitation Act of
14 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act to
15 licensure under this Act is exempt from review by the Health
16 Facilities and Services Review Board.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-104, eff. 7-22-13.)

19 Section 90. The Abuse Prevention Review Team Act is amended
20 by changing Sections 10 and 50 as follows:

21 (210 ILCS 28/10)

22 Sec. 10. Definitions. As used in this Act, unless the
23 context requires otherwise:

24 "Department" means the Department of Public Health.

1 "Director" means the Director of Public Health.

2 "Executive Council" means the Illinois Residential Health
3 Care Facility Resident Sexual Assault and Death Review Teams
4 Executive Council.

5 "Resident" means a person residing in and receiving
6 personal care from a facility licensed under the Nursing Home
7 Care Act, the Specialized Mental Health Rehabilitation Act of
8 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act.

9 "Review team" means a residential health care facility
10 resident sexual assault and death review team appointed under
11 this Act.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 98-104, eff. 7-22-13.)

14 (210 ILCS 28/50)

15 Sec. 50. Funding. Notwithstanding any other provision of
16 law, to the extent permitted by federal law, the Department
17 shall use moneys from fines paid by facilities licensed under
18 the Nursing Home Care Act, the Specialized Mental Health
19 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
20 the MC/DD Act for violating requirements for certification
21 under Titles XVIII and XIX of the Social Security Act to
22 implement the provisions of this Act. The Department shall use
23 moneys deposited in the Long Term Care Monitor/Receiver Fund to
24 pay the costs of implementing this Act that cannot be met by
25 the use of federal civil monetary penalties.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 Section 95. The Abused and Neglected Long Term Care
4 Facility Residents Reporting Act is amended by changing
5 Sections 3, 4, and 6 as follows:

6 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

7 Sec. 3. As used in this Act unless the context otherwise
8 requires:

9 a. "Department" means the Department of Public Health of
10 the State of Illinois.

11 b. "Resident" means a person residing in and receiving
12 personal care from a long term care facility, or residing in a
13 mental health facility or developmental disability facility as
14 defined in the Mental Health and Developmental Disabilities
15 Code.

16 c. "Long term care facility" has the same meaning ascribed
17 to such term in the Nursing Home Care Act, except that the term
18 as used in this Act shall include any mental health facility or
19 developmental disability facility as defined in the Mental
20 Health and Developmental Disabilities Code. The term also
21 includes any facility licensed under the ID/DD Community Care
22 Act, the MC/DD Act, or the Specialized Mental Health
23 Rehabilitation Act of 2013.

24 d. "Abuse" means any physical injury, sexual abuse or

1 mental injury inflicted on a resident other than by accidental
2 means.

3 e. "Neglect" means a failure in a long term care facility
4 to provide adequate medical or personal care or maintenance,
5 which failure results in physical or mental injury to a
6 resident or in the deterioration of a resident's physical or
7 mental condition.

8 f. "Protective services" means services provided to a
9 resident who has been abused or neglected, which may include,
10 but are not limited to alternative temporary institutional
11 placement, nursing care, counseling, other social services
12 provided at the nursing home where the resident resides or at
13 some other facility, personal care and such protective services
14 of voluntary agencies as are available.

15 g. Unless the context otherwise requires, direct or
16 indirect references in this Act to the programs, personnel,
17 facilities, services, service providers, or service recipients
18 of the Department of Human Services shall be construed to refer
19 only to those programs, personnel, facilities, services,
20 service providers, or service recipients that pertain to the
21 Department of Human Services' mental health and developmental
22 disabilities functions.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
24 eff. 7-13-12; 98-104, eff. 7-22-13.)

25 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

1 Sec. 4. Any long term care facility administrator, agent or
2 employee or any physician, hospital, surgeon, dentist,
3 osteopath, chiropractor, podiatric physician, accredited
4 religious practitioner who provides treatment by spiritual
5 means alone through prayer in accordance with the tenets and
6 practices of the accrediting church, coroner, social worker,
7 social services administrator, registered nurse, law
8 enforcement officer, field personnel of the Department of
9 Healthcare and Family Services, field personnel of the Illinois
10 Department of Public Health and County or Municipal Health
11 Departments, personnel of the Department of Human Services
12 (acting as the successor to the Department of Mental Health and
13 Developmental Disabilities or the Department of Public Aid),
14 personnel of the Guardianship and Advocacy Commission,
15 personnel of the State Fire Marshal, local fire department
16 inspectors or other personnel, or personnel of the Illinois
17 Department on Aging, or its subsidiary Agencies on Aging, or
18 employee of a facility licensed under the Assisted Living and
19 Shared Housing Act, having reasonable cause to believe any
20 resident with whom they have direct contact has been subjected
21 to abuse or neglect shall immediately report or cause a report
22 to be made to the Department. Persons required to make reports
23 or cause reports to be made under this Section include all
24 employees of the State of Illinois who are involved in
25 providing services to residents, including professionals
26 providing medical or rehabilitation services and all other

1 persons having direct contact with residents; and further
2 include all employees of community service agencies who provide
3 services to a resident of a public or private long term care
4 facility outside of that facility. Any long term care surveyor
5 of the Illinois Department of Public Health who has reasonable
6 cause to believe in the course of a survey that a resident has
7 been abused or neglected and initiates an investigation while
8 on site at the facility shall be exempt from making a report
9 under this Section but the results of any such investigation
10 shall be forwarded to the central register in a manner and form
11 described by the Department.

12 The requirement of this Act shall not relieve any long term
13 care facility administrator, agent or employee of
14 responsibility to report the abuse or neglect of a resident
15 under Section 3-610 of the Nursing Home Care Act or under
16 Section 3-610 of the ID/DD Community Care Act or under Section
17 3-610 of the MC/DD Act or under Section 2-107 of the
18 Specialized Mental Health Rehabilitation Act of 2013.

19 In addition to the above persons required to report
20 suspected resident abuse and neglect, any other person may make
21 a report to the Department, or to any law enforcement officer,
22 if such person has reasonable cause to suspect a resident has
23 been abused or neglected.

24 This Section also applies to residents whose death occurs
25 from suspected abuse or neglect before being found or brought
26 to a hospital.

1 A person required to make reports or cause reports to be
2 made under this Section who fails to comply with the
3 requirements of this Section is guilty of a Class A
4 misdemeanor.

5 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-104, eff. 7-22-13; 98-214, eff. 8-9-13;
7 98-756, eff. 7-16-14.)

8 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

9 Sec. 6. All reports of suspected abuse or neglect made
10 under this Act shall be made immediately by telephone to the
11 Department's central register established under Section 14 on
12 the single, State-wide, toll-free telephone number established
13 under Section 13, or in person or by telephone through the
14 nearest Department office. No long term care facility
15 administrator, agent or employee, or any other person, shall
16 screen reports or otherwise withhold any reports from the
17 Department, and no long term care facility, department of State
18 government, or other agency shall establish any rules,
19 criteria, standards or guidelines to the contrary. Every long
20 term care facility, department of State government and other
21 agency whose employees are required to make or cause to be made
22 reports under Section 4 shall notify its employees of the
23 provisions of that Section and of this Section, and provide to
24 the Department documentation that such notification has been
25 given. The Department of Human Services shall train all of its

1 mental health and developmental disabilities employees in the
2 detection and reporting of suspected abuse and neglect of
3 residents. Reports made to the central register through the
4 State-wide, toll-free telephone number shall be transmitted to
5 appropriate Department offices and municipal health
6 departments that have responsibility for licensing long term
7 care facilities under the Nursing Home Care Act, the
8 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
9 ID/DD Community Care Act, or the MC/DD Act. All reports
10 received through offices of the Department shall be forwarded
11 to the central register, in a manner and form described by the
12 Department. The Department shall be capable of receiving
13 reports of suspected abuse and neglect 24 hours a day, 7 days a
14 week. Reports shall also be made in writing deposited in the
15 U.S. mail, postage prepaid, within 24 hours after having
16 reasonable cause to believe that the condition of the resident
17 resulted from abuse or neglect. Such reports may in addition be
18 made to the local law enforcement agency in the same manner.
19 However, in the event a report is made to the local law
20 enforcement agency, the reporter also shall immediately so
21 inform the Department. The Department shall initiate an
22 investigation of each report of resident abuse and neglect
23 under this Act, whether oral or written, as provided for in
24 Section 3-702 of the Nursing Home Care Act, Section 2-208 of
25 the Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
26 Section 3-702 of the ID/DD Community Care Act, or Section 3-702

1 of the MC/DD Act, except that reports of abuse which indicate
2 that a resident's life or safety is in imminent danger shall be
3 investigated within 24 hours of such report. The Department may
4 delegate to law enforcement officials or other public agencies
5 the duty to perform such investigation.

6 With respect to investigations of reports of suspected
7 abuse or neglect of residents of mental health and
8 developmental disabilities institutions under the jurisdiction
9 of the Department of Human Services, the Department shall
10 transmit copies of such reports to the Department of State
11 Police, the Department of Human Services, and the Inspector
12 General appointed under Section 1-17 of the Department of Human
13 Services Act. If the Department receives a report of suspected
14 abuse or neglect of a recipient of services as defined in
15 Section 1-123 of the Mental Health and Developmental
16 Disabilities Code, the Department shall transmit copies of such
17 report to the Inspector General and the Directors of the
18 Guardianship and Advocacy Commission and the agency designated
19 by the Governor pursuant to the Protection and Advocacy for
20 Developmentally Disabled Persons Act. When requested by the
21 Director of the Guardianship and Advocacy Commission, the
22 agency designated by the Governor pursuant to the Protection
23 and Advocacy for Developmentally Disabled Persons Act, or the
24 Department of Financial and Professional Regulation, the
25 Department, the Department of Human Services and the Department
26 of State Police shall make available a copy of the final

1 investigative report regarding investigations conducted by
2 their respective agencies on incidents of suspected abuse or
3 neglect of residents of mental health and developmental
4 disabilities institutions or individuals receiving services at
5 community agencies under the jurisdiction of the Department of
6 Human Services. Such final investigative report shall not
7 contain witness statements, investigation notes, draft
8 summaries, results of lie detector tests, investigative files
9 or other raw data which was used to compile the final
10 investigative report. Specifically, the final investigative
11 report of the Department of State Police shall mean the
12 Director's final transmittal letter. The Department of Human
13 Services shall also make available a copy of the results of
14 disciplinary proceedings of employees involved in incidents of
15 abuse or neglect to the Directors. All identifiable information
16 in reports provided shall not be further disclosed except as
17 provided by the Mental Health and Developmental Disabilities
18 Confidentiality Act. Nothing in this Section is intended to
19 limit or construe the power or authority granted to the agency
20 designated by the Governor pursuant to the Protection and
21 Advocacy for Developmentally Disabled Persons Act, pursuant to
22 any other State or federal statute.

23 With respect to investigations of reported resident abuse
24 or neglect, the Department shall effect with appropriate law
25 enforcement agencies formal agreements concerning methods and
26 procedures for the conduct of investigations into the criminal

1 histories of any administrator, staff assistant or employee of
2 the nursing home or other person responsible for the residents
3 care, as well as for other residents in the nursing home who
4 may be in a position to abuse, neglect or exploit the patient.
5 Pursuant to the formal agreements entered into with appropriate
6 law enforcement agencies, the Department may request
7 information with respect to whether the person or persons set
8 forth in this paragraph have ever been charged with a crime and
9 if so, the disposition of those charges. Unless the criminal
10 histories of the subjects involved crimes of violence or
11 resident abuse or neglect, the Department shall be entitled
12 only to information limited in scope to charges and their
13 dispositions. In cases where prior crimes of violence or
14 resident abuse or neglect are involved, a more detailed report
15 can be made available to authorized representatives of the
16 Department, pursuant to the agreements entered into with
17 appropriate law enforcement agencies. Any criminal charges and
18 their disposition information obtained by the Department shall
19 be confidential and may not be transmitted outside the
20 Department, except as required herein, to authorized
21 representatives or delegates of the Department, and may not be
22 transmitted to anyone within the Department who is not duly
23 authorized to handle resident abuse or neglect investigations.

24 The Department shall effect formal agreements with
25 appropriate law enforcement agencies in the various counties
26 and communities to encourage cooperation and coordination in

1 the handling of resident abuse or neglect cases pursuant to
2 this Act. The Department shall adopt and implement methods and
3 procedures to promote statewide uniformity in the handling of
4 reports of abuse and neglect under this Act, and those methods
5 and procedures shall be adhered to by personnel of the
6 Department involved in such investigations and reporting. The
7 Department shall also make information required by this Act
8 available to authorized personnel within the Department, as
9 well as its authorized representatives.

10 The Department shall keep a continuing record of all
11 reports made pursuant to this Act, including indications of the
12 final determination of any investigation and the final
13 disposition of all reports.

14 The Department shall report annually to the General
15 Assembly on the incidence of abuse and neglect of long term
16 care facility residents, with special attention to residents
17 who are mentally disabled. The report shall include but not be
18 limited to data on the number and source of reports of
19 suspected abuse or neglect filed under this Act, the nature of
20 any injuries to residents, the final determination of
21 investigations, the type and number of cases where abuse or
22 neglect is determined to exist, and the final disposition of
23 cases.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 Section 100. The Nursing Home Care Act is amended by
2 changing Sections 1-113, 2-201.5, and 3-202.5 as follows:

3 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

4 Sec. 1-113. "Facility" or "long-term care facility" means a
5 private home, institution, building, residence, or any other
6 place, whether operated for profit or not, or a county home for
7 the infirm and chronically ill operated pursuant to Division
8 5-21 or 5-22 of the Counties Code, or any similar institution
9 operated by a political subdivision of the State of Illinois,
10 which provides, through its ownership or management, personal
11 care, sheltered care or nursing for 3 or more persons, not
12 related to the applicant or owner by blood or marriage. It
13 includes skilled nursing facilities and intermediate care
14 facilities as those terms are defined in Title XVIII and Title
15 XIX of the Federal Social Security Act. It also includes homes,
16 institutions, or other places operated by or under the
17 authority of the Illinois Department of Veterans' Affairs.

18 "Facility" does not include the following:

19 (1) A home, institution, or other place operated by the
20 federal government or agency thereof, or by the State of
21 Illinois, other than homes, institutions, or other places
22 operated by or under the authority of the Illinois
23 Department of Veterans' Affairs;

24 (2) A hospital, sanitarium, or other institution whose
25 principal activity or business is the diagnosis, care, and

1 treatment of human illness through the maintenance and
2 operation as organized facilities therefor, which is
3 required to be licensed under the Hospital Licensing Act;

4 (3) Any "facility for child care" as defined in the
5 Child Care Act of 1969;

6 (4) Any "Community Living Facility" as defined in the
7 Community Living Facilities Licensing Act;

8 (5) Any "community residential alternative" as defined
9 in the Community Residential Alternatives Licensing Act;

10 (6) Any nursing home or sanatorium operated solely by
11 and for persons who rely exclusively upon treatment by
12 spiritual means through prayer, in accordance with the
13 creed or tenets of any well-recognized church or religious
14 denomination. However, such nursing home or sanatorium
15 shall comply with all local laws and rules relating to
16 sanitation and safety;

17 (7) Any facility licensed by the Department of Human
18 Services as a community-integrated living arrangement as
19 defined in the Community-Integrated Living Arrangements
20 Licensure and Certification Act;

21 (8) Any "Supportive Residence" licensed under the
22 Supportive Residences Licensing Act;

23 (9) Any "supportive living facility" in good standing
24 with the program established under Section 5-5.01a of the
25 Illinois Public Aid Code, except only for purposes of the
26 employment of persons in accordance with Section 3-206.01;

1 (10) Any assisted living or shared housing
2 establishment licensed under the Assisted Living and
3 Shared Housing Act, except only for purposes of the
4 employment of persons in accordance with Section 3-206.01;

5 (11) An Alzheimer's disease management center
6 alternative health care model licensed under the
7 Alternative Health Care Delivery Act;

8 (12) A facility licensed under the ID/DD Community Care
9 Act; ~~or~~

10 (13) A facility licensed under the Specialized Mental
11 Health Rehabilitation Act of 2013; or ~~or~~

12 (14) A facility licensed under the MC/DD Act.

13 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 98-104, eff. 7-22-13.)

15 (210 ILCS 45/2-201.5)

16 Sec. 2-201.5. Screening prior to admission.

17 (a) All persons age 18 or older seeking admission to a
18 nursing facility must be screened to determine the need for
19 nursing facility services prior to being admitted, regardless
20 of income, assets, or funding source. Screening for nursing
21 facility services shall be administered through procedures
22 established by administrative rule. Screening may be done by
23 agencies other than the Department as established by
24 administrative rule. This Section applies on and after July 1,
25 1996. No later than October 1, 2010, the Department of

1 Healthcare and Family Services, in collaboration with the
2 Department on Aging, the Department of Human Services, and the
3 Department of Public Health, shall file administrative rules
4 providing for the gathering, during the screening process, of
5 information relevant to determining each person's potential
6 for placing other residents, employees, and visitors at risk of
7 harm.

8 (a-1) Any screening performed pursuant to subsection (a) of
9 this Section shall include a determination of whether any
10 person is being considered for admission to a nursing facility
11 due to a need for mental health services. For a person who
12 needs mental health services, the screening shall also include
13 an evaluation of whether there is permanent supportive housing,
14 or an array of community mental health services, including but
15 not limited to supported housing, assertive community
16 treatment, and peer support services, that would enable the
17 person to live in the community. The person shall be told about
18 the existence of any such services that would enable the person
19 to live safely and humanely and about available appropriate
20 nursing home services that would enable the person to live
21 safely and humanely, and the person shall be given the
22 assistance necessary to avail himself or herself of any
23 available services.

24 (a-2) Pre-screening for persons with a serious mental
25 illness shall be performed by a psychiatrist, a psychologist, a
26 registered nurse certified in psychiatric nursing, a licensed

1 clinical professional counselor, or a licensed clinical social
2 worker, who is competent to (i) perform a clinical assessment
3 of the individual, (ii) certify a diagnosis, (iii) make a
4 determination about the individual's current need for
5 treatment, including substance abuse treatment, and recommend
6 specific treatment, and (iv) determine whether a facility or a
7 community-based program is able to meet the needs of the
8 individual.

9 For any person entering a nursing facility, the
10 pre-screening agent shall make specific recommendations about
11 what care and services the individual needs to receive,
12 beginning at admission, to attain or maintain the individual's
13 highest level of independent functioning and to live in the
14 most integrated setting appropriate for his or her physical and
15 personal care and developmental and mental health needs. These
16 recommendations shall be revised as appropriate by the
17 pre-screening or re-screening agent based on the results of
18 resident review and in response to changes in the resident's
19 wishes, needs, and interest in transition.

20 Upon the person entering the nursing facility, the
21 Department of Human Services or its designee shall assist the
22 person in establishing a relationship with a community mental
23 health agency or other appropriate agencies in order to (i)
24 promote the person's transition to independent living and (ii)
25 support the person's progress in meeting individual goals.

26 (a-3) The Department of Human Services, by rule, shall

1 provide for a prohibition on conflicts of interest for
2 pre-admission screeners. The rule shall provide for waiver of
3 those conflicts by the Department of Human Services if the
4 Department of Human Services determines that a scarcity of
5 qualified pre-admission screeners exists in a given community
6 and that, absent a waiver of conflicts, an insufficient number
7 of pre-admission screeners would be available. If a conflict is
8 waived, the pre-admission screener shall disclose the conflict
9 of interest to the screened individual in the manner provided
10 for by rule of the Department of Human Services. For the
11 purposes of this subsection, a "conflict of interest" includes,
12 but is not limited to, the existence of a professional or
13 financial relationship between (i) a PAS-MH corporate or a
14 PAS-MH agent and (ii) a community provider or long-term care
15 facility.

16 (b) In addition to the screening required by subsection
17 (a), a facility, except for those licensed under the MC/DD Act
18 ~~as long term care for under age 22 facilities~~, shall, within 24
19 hours after admission, request a criminal history background
20 check pursuant to the Uniform Conviction Information Act for
21 all persons age 18 or older seeking admission to the facility,
22 unless a background check was initiated by a hospital pursuant
23 to subsection (d) of Section 6.09 of the Hospital Licensing
24 Act. Background checks conducted pursuant to this Section shall
25 be based on the resident's name, date of birth, and other
26 identifiers as required by the Department of State Police. If

1 the results of the background check are inconclusive, the
2 facility shall initiate a fingerprint-based check, unless the
3 fingerprint check is waived by the Director of Public Health
4 based on verification by the facility that the resident is
5 completely immobile or that the resident meets other criteria
6 related to the resident's health or lack of potential risk
7 which may be established by Departmental rule. A waiver issued
8 pursuant to this Section shall be valid only while the resident
9 is immobile or while the criteria supporting the waiver exist.
10 The facility shall provide for or arrange for any required
11 fingerprint-based checks to be taken on the premises of the
12 facility. If a fingerprint-based check is required, the
13 facility shall arrange for it to be conducted in a manner that
14 is respectful of the resident's dignity and that minimizes any
15 emotional or physical hardship to the resident.

16 (c) If the results of a resident's criminal history
17 background check reveal that the resident is an identified
18 offender as defined in Section 1-114.01, the facility shall do
19 the following:

20 (1) Immediately notify the Department of State Police,
21 in the form and manner required by the Department of State
22 Police, in collaboration with the Department of Public
23 Health, that the resident is an identified offender.

24 (2) Within 72 hours, arrange for a fingerprint-based
25 criminal history record inquiry to be requested on the
26 identified offender resident. The inquiry shall be based on

1 the subject's name, sex, race, date of birth, fingerprint
2 images, and other identifiers required by the Department of
3 State Police. The inquiry shall be processed through the
4 files of the Department of State Police and the Federal
5 Bureau of Investigation to locate any criminal history
6 record information that may exist regarding the subject.
7 The Federal Bureau of Investigation shall furnish to the
8 Department of State Police, pursuant to an inquiry under
9 this paragraph (2), any criminal history record
10 information contained in its files.

11 The facility shall comply with all applicable provisions
12 contained in the Uniform Conviction Information Act.

13 All name-based and fingerprint-based criminal history
14 record inquiries shall be submitted to the Department of State
15 Police electronically in the form and manner prescribed by the
16 Department of State Police. The Department of State Police may
17 charge the facility a fee for processing name-based and
18 fingerprint-based criminal history record inquiries. The fee
19 shall be deposited into the State Police Services Fund. The fee
20 shall not exceed the actual cost of processing the inquiry.

21 (d) (Blank).

22 (e) The Department shall develop and maintain a
23 de-identified database of residents who have injured facility
24 staff, facility visitors, or other residents, and the attendant
25 circumstances, solely for the purposes of evaluating and
26 improving resident pre-screening and assessment procedures

1 (including the Criminal History Report prepared under Section
2 2-201.6) and the adequacy of Department requirements
3 concerning the provision of care and services to residents. A
4 resident shall not be listed in the database until a Department
5 survey confirms the accuracy of the listing. The names of
6 persons listed in the database and information that would allow
7 them to be individually identified shall not be made public.
8 Neither the Department nor any other agency of State government
9 may use information in the database to take any action against
10 any individual, licensee, or other entity, unless the
11 Department or agency receives the information independent of
12 this subsection (e). All information collected, maintained, or
13 developed under the authority of this subsection (e) for the
14 purposes of the database maintained under this subsection (e)
15 shall be treated in the same manner as information that is
16 subject to Part 21 of Article VIII of the Code of Civil
17 Procedure.

18 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

19 (210 ILCS 45/3-202.5)

20 Sec. 3-202.5. Facility plan review; fees.

21 (a) Before commencing construction of a new facility or
22 specified types of alteration or additions to an existing long
23 term care facility involving major construction, as defined by
24 rule by the Department, with an estimated cost greater than
25 \$100,000, architectural drawings and specifications for the

1 facility shall be submitted to the Department for review and
2 approval. A facility may submit architectural drawings and
3 specifications for other construction projects for Department
4 review according to subsection (b) that shall not be subject to
5 fees under subsection (d). Review of drawings and
6 specifications shall be conducted by an employee of the
7 Department meeting the qualifications established by the
8 Department of Central Management Services class specifications
9 for such an individual's position or by a person contracting
10 with the Department who meets those class specifications. Final
11 approval of the drawings and specifications for compliance with
12 design and construction standards shall be obtained from the
13 Department before the alteration, addition, or new
14 construction is begun.

15 (b) The Department shall inform an applicant in writing
16 within 10 working days after receiving drawings and
17 specifications and the required fee, if any, from the applicant
18 whether the applicant's submission is complete or incomplete.
19 Failure to provide the applicant with this notice within 10
20 working days shall result in the submission being deemed
21 complete for purposes of initiating the 60-day review period
22 under this Section. If the submission is incomplete, the
23 Department shall inform the applicant of the deficiencies with
24 the submission in writing. If the submission is complete the
25 required fee, if any, has been paid, the Department shall
26 approve or disapprove drawings and specifications submitted to

1 the Department no later than 60 days following receipt by the
2 Department. The drawings and specifications shall be of
3 sufficient detail, as provided by Department rule, to enable
4 the Department to render a determination of compliance with
5 design and construction standards under this Act. If the
6 Department finds that the drawings are not of sufficient detail
7 for it to render a determination of compliance, the plans shall
8 be determined to be incomplete and shall not be considered for
9 purposes of initiating the 60 day review period. If a
10 submission of drawings and specifications is incomplete, the
11 applicant may submit additional information. The 60-day review
12 period shall not commence until the Department determines that
13 a submission of drawings and specifications is complete or the
14 submission is deemed complete. If the Department has not
15 approved or disapproved the drawings and specifications within
16 60 days, the construction, major alteration, or addition shall
17 be deemed approved. If the drawings and specifications are
18 disapproved, the Department shall state in writing, with
19 specificity, the reasons for the disapproval. The entity
20 submitting the drawings and specifications may submit
21 additional information in response to the written comments from
22 the Department or request a reconsideration of the disapproval.
23 A final decision of approval or disapproval shall be made
24 within 45 days of the receipt of the additional information or
25 reconsideration request. If denied, the Department shall state
26 the specific reasons for the denial.

1 (c) The Department shall provide written approval for
2 occupancy pursuant to subsection (g) and shall not issue a
3 violation to a facility as a result of a licensure or complaint
4 survey based upon the facility's physical structure if:

5 (1) the Department reviewed and approved or deemed
6 approved the drawings and specifications for compliance
7 with design and construction standards;

8 (2) the construction, major alteration, or addition
9 was built as submitted;

10 (3) the law or rules have not been amended since the
11 original approval; and

12 (4) the conditions at the facility indicate that there
13 is a reasonable degree of safety provided for the
14 residents.

15 (d) The Department shall charge the following fees in
16 connection with its reviews conducted before June 30, 2004
17 under this Section:

18 (1) (Blank).

19 (2) (Blank).

20 (3) If the estimated dollar value of the alteration,
21 addition, or new construction is \$100,000 or more but less
22 than \$500,000, the fee shall be the greater of \$2,400 or
23 1.2% of that value.

24 (4) If the estimated dollar value of the alteration,
25 addition, or new construction is \$500,000 or more but less
26 than \$1,000,000, the fee shall be the greater of \$6,000 or

1 0.96% of that value.

2 (5) If the estimated dollar value of the alteration,
3 addition, or new construction is \$1,000,000 or more but
4 less than \$5,000,000, the fee shall be the greater of
5 \$9,600 or 0.22% of that value.

6 (6) If the estimated dollar value of the alteration,
7 addition, or new construction is \$5,000,000 or more, the
8 fee shall be the greater of \$11,000 or 0.11% of that value,
9 but shall not exceed \$40,000.

10 The fees provided in this subsection (d) shall not apply to
11 major construction projects involving facility changes that
12 are required by Department rule amendments.

13 The fees provided in this subsection (d) shall also not
14 apply to major construction projects if 51% or more of the
15 estimated cost of the project is attributed to capital
16 equipment. For major construction projects where 51% or more of
17 the estimated cost of the project is attributed to capital
18 equipment, the Department shall by rule establish a fee that is
19 reasonably related to the cost of reviewing the project.

20 The Department shall not commence the facility plan review
21 process under this Section until the applicable fee has been
22 paid.

23 (e) All fees received by the Department under this Section
24 shall be deposited into the Health Facility Plan Review Fund, a
25 special fund created in the State Treasury. All fees paid by
26 long-term care facilities under subsection (d) shall be used

1 only to cover the costs relating to the Department's review of
2 long-term care facility projects under this Section. Moneys
3 shall be appropriated from that Fund to the Department only to
4 pay the costs of conducting reviews under this Section or under
5 Section 3-202.5 of the ID/DD Community Care Act or Section
6 3-202.5 of the MC/DD Act. None of the moneys in the Health
7 Facility Plan Review Fund shall be used to reduce the amount of
8 General Revenue Fund moneys appropriated to the Department for
9 facility plan reviews conducted pursuant to this Section.

10 (f)(1) The provisions of this amendatory Act of 1997
11 concerning drawings and specifications shall apply only to
12 drawings and specifications submitted to the Department on or
13 after October 1, 1997.

14 (2) On and after the effective date of this amendatory Act
15 of 1997 and before October 1, 1997, an applicant may submit or
16 resubmit drawings and specifications to the Department and pay
17 the fees provided in subsection (d). If an applicant pays the
18 fees provided in subsection (d) under this paragraph (2), the
19 provisions of subsection (b) shall apply with regard to those
20 drawings and specifications.

21 (g) The Department shall conduct an on-site inspection of
22 the completed project no later than 30 days after notification
23 from the applicant that the project has been completed and all
24 certifications required by the Department have been received
25 and accepted by the Department. The Department shall provide
26 written approval for occupancy to the applicant within 5

1 working days of the Department's final inspection, provided the
2 applicant has demonstrated substantial compliance as defined
3 by Department rule. Occupancy of new major construction is
4 prohibited until Department approval is received, unless the
5 Department has not acted within the time frames provided in
6 this subsection (g), in which case the construction shall be
7 deemed approved. Occupancy shall be authorized after any
8 required health inspection by the Department has been
9 conducted.

10 (h) The Department shall establish, by rule, a procedure to
11 conduct interim on-site review of large or complex construction
12 projects.

13 (i) The Department shall establish, by rule, an expedited
14 process for emergency repairs or replacement of like equipment.

15 (j) Nothing in this Section shall be construed to apply to
16 maintenance, upkeep, or renovation that does not affect the
17 structural integrity of the building, does not add beds or
18 services over the number for which the long-term care facility
19 is licensed, and provides a reasonable degree of safety for the
20 residents.

21 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
22 eff. 7-13-12; 98-104, eff. 7-22-13.)

23 Section 105. The ID/DD Community Care Act is amended by
24 changing Sections 1-101.05 and 1-113 as follows:

1 (210 ILCS 47/1-101.05)

2 Sec. 1-101.05. Prior law.

3 (a) This Act provides for licensure of intermediate care
4 facilities for the developmentally disabled ~~and long-term care~~
5 ~~for under age 22 facilities~~ under this Act instead of under the
6 Nursing Home Care Act. On and after the effective date of this
7 Act, those facilities shall be governed by this Act instead of
8 the Nursing Home Care Act.

9 On and after the effective date of this amendatory Act of
10 the 99th General Assembly, long-term care for under age 22
11 facilities shall be known as medically complex for the
12 developmentally disabled facilities and governed by the MC/DD
13 Act instead of this Act.

14 (b) If any other Act of the General Assembly changes, adds,
15 or repeals a provision of the Nursing Home Care Act that is the
16 same as or substantially similar to a provision of this Act,
17 then that change, addition, or repeal in the Nursing Home Care
18 Act shall be construed together with this Act until July 1,
19 2010 and not thereafter.

20 (c) Nothing in this Act affects the validity or effect of
21 any finding, decision, or action made or taken by the
22 Department or the Director under the Nursing Home Care Act
23 before the effective date of this Act with respect to a
24 facility subject to licensure under this Act. That finding,
25 decision, or action shall continue to apply to the facility on
26 and after the effective date of this Act. Any finding,

1 decision, or action with respect to the facility made or taken
2 on or after the effective date of this Act shall be made or
3 taken as provided in this Act.

4 (Source: P.A. 96-339, eff. 7-1-10; 96-1187, eff. 7-22-10.)

5 (210 ILCS 47/1-113)

6 Sec. 1-113. Facility. "ID/DD facility" or "facility" means
7 an intermediate care facility for the developmentally disabled
8 ~~or a long term care for under age 22 facility~~, whether operated
9 for profit or not, which provides, through its ownership or
10 management, personal care or nursing for 3 or more persons not
11 related to the applicant or owner by blood or marriage. It
12 includes intermediate care facilities for the intellectually
13 disabled as the term is defined in Title XVIII and Title XIX of
14 the federal Social Security Act.

15 "Facility" does not include the following:

16 (1) A home, institution, or other place operated by the
17 federal government or agency thereof, or by the State of
18 Illinois, other than homes, institutions, or other places
19 operated by or under the authority of the Illinois
20 Department of Veterans' Affairs;

21 (2) A hospital, sanitarium, or other institution whose
22 principal activity or business is the diagnosis, care, and
23 treatment of human illness through the maintenance and
24 operation as organized facilities therefore, which is
25 required to be licensed under the Hospital Licensing Act;

1 (3) Any "facility for child care" as defined in the
2 Child Care Act of 1969;

3 (4) Any "community living facility" as defined in the
4 Community Living Facilities Licensing Act;

5 (5) Any "community residential alternative" as defined
6 in the Community Residential Alternatives Licensing Act;

7 (6) Any nursing home or sanatorium operated solely by
8 and for persons who rely exclusively upon treatment by
9 spiritual means through prayer, in accordance with the
10 creed or tenets of any well recognized church or religious
11 denomination. However, such nursing home or sanatorium
12 shall comply with all local laws and rules relating to
13 sanitation and safety;

14 (7) Any facility licensed by the Department of Human
15 Services as a community-integrated living arrangement as
16 defined in the Community-Integrated Living Arrangements
17 Licensure and Certification Act;

18 (8) Any "supportive residence" licensed under the
19 Supportive Residences Licensing Act;

20 (9) Any "supportive living facility" in good standing
21 with the program established under Section 5-5.01a of the
22 Illinois Public Aid Code, except only for purposes of the
23 employment of persons in accordance with Section 3-206.01;

24 (10) Any assisted living or shared housing
25 establishment licensed under the Assisted Living and
26 Shared Housing Act, except only for purposes of the

1 employment of persons in accordance with Section 3-206.01;

2 (11) An Alzheimer's disease management center
3 alternative health care model licensed under the
4 Alternative Health Care Delivery Act; ~~or~~

5 (12) A home, institution, or other place operated by or
6 under the authority of the Illinois Department of Veterans'
7 Affairs; or -

8 (13) Any MC/DD facility licensed under the MC/DD Act.

9 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10;
10 97-227, eff. 1-1-12.)

11 (210 ILCS 47/2-218 rep.)

12 Section 110. The ID/DD Community Care Act is amended by
13 repealing Section 2-218.

14 Section 115. The Specialized Mental Health Rehabilitation
15 Act of 2013 is amended by changing Section 1-102 as follows:

16 (210 ILCS 49/1-102)

17 Sec. 1-102. Definitions. For the purposes of this Act,
18 unless the context otherwise requires:

19 "Abuse" means any physical or mental injury or sexual
20 assault inflicted on a consumer other than by accidental means
21 in a facility.

22 "Accreditation" means any of the following:

23 (1) the Joint Commission;

1 (2) the Commission on Accreditation of Rehabilitation
2 Facilities;

3 (3) the Healthcare Facilities Accreditation Program;
4 or

5 (4) any other national standards of care as approved by
6 the Department.

7 "Applicant" means any person making application for a
8 license or a provisional license under this Act.

9 "Consumer" means a person, 18 years of age or older,
10 admitted to a mental health rehabilitation facility for
11 evaluation, observation, diagnosis, treatment, stabilization,
12 recovery, and rehabilitation.

13 "Consumer" does not mean any of the following:

14 (i) an individual requiring a locked setting;

15 (ii) an individual requiring psychiatric
16 hospitalization because of an acute psychiatric crisis;

17 (iii) an individual under 18 years of age;

18 (iv) an individual who is actively suicidal or violent
19 toward others;

20 (v) an individual who has been found unfit to stand
21 trial;

22 (vi) an individual who has been found not guilty by
23 reason of insanity based on committing a violent act, such
24 as sexual assault, assault with a deadly weapon, arson, or
25 murder;

26 (vii) an individual subject to temporary detention and

1 examination under Section 3-607 of the Mental Health and
2 Developmental Disabilities Code;

3 (viii) an individual deemed clinically appropriate for
4 inpatient admission in a State psychiatric hospital; and

5 (ix) an individual transferred by the Department of
6 Corrections pursuant to Section 3-8-5 of the Unified Code
7 of Corrections.

8 "Consumer record" means a record that organizes all
9 information on the care, treatment, and rehabilitation
10 services rendered to a consumer in a specialized mental health
11 rehabilitation facility.

12 "Controlled drugs" means those drugs covered under the
13 federal Comprehensive Drug Abuse Prevention Control Act of
14 1970, as amended, or the Illinois Controlled Substances Act.

15 "Department" means the Department of Public Health.

16 "Discharge" means the full release of any consumer from a
17 facility.

18 "Drug administration" means the act in which a single dose
19 of a prescribed drug or biological is given to a consumer. The
20 complete act of administration entails removing an individual
21 dose from a container, verifying the dose with the prescriber's
22 orders, giving the individual dose to the consumer, and
23 promptly recording the time and dose given.

24 "Drug dispensing" means the act entailing the following of
25 a prescription order for a drug or biological and proper
26 selection, measuring, packaging, labeling, and issuance of the

1 drug or biological to a consumer.

2 "Emergency" means a situation, physical condition, or one
3 or more practices, methods, or operations which present
4 imminent danger of death or serious physical or mental harm to
5 consumers of a facility.

6 "Facility" means a specialized mental health
7 rehabilitation facility that provides at least one of the
8 following services: (1) triage center; (2) crisis
9 stabilization; (3) recovery and rehabilitation supports; or
10 (4) transitional living units for 3 or more persons. The
11 facility shall provide a 24-hour program that provides
12 intensive support and recovery services designed to assist
13 persons, 18 years or older, with mental disorders to develop
14 the skills to become self-sufficient and capable of increasing
15 levels of independent functioning. It includes facilities that
16 meet the following criteria:

17 (1) 100% of the consumer population of the facility has
18 a diagnosis of serious mental illness;

19 (2) no more than 15% of the consumer population of the
20 facility is 65 years of age or older;

21 (3) none of the consumers are non-ambulatory;

22 (4) none of the consumers have a primary diagnosis of
23 moderate, severe, or profound intellectual disability; and

24 (5) the facility must have been licensed under the
25 Specialized Mental Health Rehabilitation Act or the
26 Nursing Home Care Act immediately preceding the effective

1 date of this Act and qualifies as a institute for mental
2 disease under the federal definition of the term.

3 "Facility" does not include the following:

4 (1) a home, institution, or place operated by the
5 federal government or agency thereof, or by the State of
6 Illinois;

7 (2) a hospital, sanitarium, or other institution whose
8 principal activity or business is the diagnosis, care, and
9 treatment of human illness through the maintenance and
10 operation as organized facilities therefor which is
11 required to be licensed under the Hospital Licensing Act;

12 (3) a facility for child care as defined in the Child
13 Care Act of 1969;

14 (4) a community living facility as defined in the
15 Community Living Facilities Licensing Act;

16 (5) a nursing home or sanatorium operated solely by and
17 for persons who rely exclusively upon treatment by
18 spiritual means through prayer, in accordance with the
19 creed or tenets of any well-recognized church or religious
20 denomination; however, such nursing home or sanatorium
21 shall comply with all local laws and rules relating to
22 sanitation and safety;

23 (6) a facility licensed by the Department of Human
24 Services as a community-integrated living arrangement as
25 defined in the Community-Integrated Living Arrangements
26 Licensure and Certification Act;

1 (7) a supportive residence licensed under the
2 Supportive Residences Licensing Act;

3 (8) a supportive living facility in good standing with
4 the program established under Section 5-5.01a of the
5 Illinois Public Aid Code, except only for purposes of the
6 employment of persons in accordance with Section 3-206.01
7 of the Nursing Home Care Act;

8 (9) an assisted living or shared housing establishment
9 licensed under the Assisted Living and Shared Housing Act,
10 except only for purposes of the employment of persons in
11 accordance with Section 3-206.01 of the Nursing Home Care
12 Act;

13 (10) an Alzheimer's disease management center
14 alternative health care model licensed under the
15 Alternative Health Care Delivery Act;

16 (11) a home, institution, or other place operated by or
17 under the authority of the Illinois Department of Veterans'
18 Affairs;

19 (12) a facility licensed under the ID/DD Community Care
20 Act; ~~or~~

21 (13) a facility licensed under the Nursing Home Care
22 Act after the effective date of this Act; or ~~-~~

23 (14) a facility licensed under the MC/DD Act.

24 "Executive director" means a person who is charged with the
25 general administration and supervision of a facility licensed
26 under this Act.

1 "Guardian" means a person appointed as a guardian of the
2 person or guardian of the estate, or both, of a consumer under
3 the Probate Act of 1975.

4 "Identified offender" means a person who meets any of the
5 following criteria:

6 (1) Has been convicted of, found guilty of, adjudicated
7 delinquent for, found not guilty by reason of insanity for,
8 or found unfit to stand trial for, any felony offense
9 listed in Section 25 of the Health Care Worker Background
10 Check Act, except for the following:

11 (i) a felony offense described in Section 10-5 of
12 the Nurse Practice Act;

13 (ii) a felony offense described in Section 4, 5, 6,
14 8, or 17.02 of the Illinois Credit Card and Debit Card
15 Act;

16 (iii) a felony offense described in Section 5, 5.1,
17 5.2, 7, or 9 of the Cannabis Control Act;

18 (iv) a felony offense described in Section 401,
19 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
20 Controlled Substances Act; and

21 (v) a felony offense described in the
22 Methamphetamine Control and Community Protection Act.

23 (2) Has been convicted of, adjudicated delinquent for,
24 found not guilty by reason of insanity for, or found unfit
25 to stand trial for, any sex offense as defined in
26 subsection (c) of Section 10 of the Sex Offender Management

1 Board Act.

2 "Transitional living units" are residential units within a
3 facility that have the purpose of assisting the consumer in
4 developing and reinforcing the necessary skills to live
5 independently outside of the facility. The duration of stay in
6 such a setting shall not exceed 120 days for each consumer.
7 Nothing in this definition shall be construed to be a
8 prerequisite for transitioning out of a facility.

9 "Licensee" means the person, persons, firm, partnership,
10 association, organization, company, corporation, or business
11 trust to which a license has been issued.

12 "Misappropriation of a consumer's property" means the
13 deliberate misplacement, exploitation, or wrongful temporary
14 or permanent use of a consumer's belongings or money without
15 the consent of a consumer or his or her guardian.

16 "Neglect" means a facility's failure to provide, or willful
17 withholding of, adequate medical care, mental health
18 treatment, psychiatric rehabilitation, personal care, or
19 assistance that is necessary to avoid physical harm and mental
20 anguish of a consumer.

21 "Personal care" means assistance with meals, dressing,
22 movement, bathing, or other personal needs, maintenance, or
23 general supervision and oversight of the physical and mental
24 well-being of an individual who is incapable of maintaining a
25 private, independent residence or who is incapable of managing
26 his or her person, whether or not a guardian has been appointed

1 for such individual. "Personal care" shall not be construed to
2 confine or otherwise constrain a facility's pursuit to develop
3 the skills and abilities of a consumer to become
4 self-sufficient and capable of increasing levels of
5 independent functioning.

6 "Recovery and rehabilitation supports" means a program
7 that facilitates a consumer's longer-term symptom management
8 and stabilization while preparing the consumer for
9 transitional living units by improving living skills and
10 community socialization. The duration of stay in such a setting
11 shall be established by the Department by rule.

12 "Restraint" means:

13 (i) a physical restraint that is any manual method or
14 physical or mechanical device, material, or equipment
15 attached or adjacent to a consumer's body that the consumer
16 cannot remove easily and restricts freedom of movement or
17 normal access to one's body; devices used for positioning,
18 including, but not limited to, bed rails, gait belts, and
19 cushions, shall not be considered to be restraints for
20 purposes of this Section; or

21 (ii) a chemical restraint that is any drug used for
22 discipline or convenience and not required to treat medical
23 symptoms; the Department shall, by rule, designate certain
24 devices as restraints, including at least all those devices
25 that have been determined to be restraints by the United
26 States Department of Health and Human Services in

1 interpretive guidelines issued for the purposes of
2 administering Titles XVIII and XIX of the federal Social
3 Security Act. For the purposes of this Act, restraint shall
4 be administered only after utilizing a coercive free
5 environment and culture.

6 "Self-administration of medication" means consumers shall
7 be responsible for the control, management, and use of their
8 own medication.

9 "Crisis stabilization" means a secure and separate unit
10 that provides short-term behavioral, emotional, or psychiatric
11 crisis stabilization as an alternative to hospitalization or
12 re-hospitalization for consumers from residential or community
13 placement. The duration of stay in such a setting shall not
14 exceed 21 days for each consumer.

15 "Therapeutic separation" means the removal of a consumer
16 from the milieu to a room or area which is designed to aid in
17 the emotional or psychiatric stabilization of that consumer.

18 "Triage center" means a non-residential 23-hour center
19 that serves as an alternative to emergency room care,
20 hospitalization, or re-hospitalization for consumers in need
21 of short-term crisis stabilization. Consumers may access a
22 triage center from a number of referral sources, including
23 family, emergency rooms, hospitals, community behavioral
24 health providers, federally qualified health providers, or
25 schools, including colleges or universities. A triage center
26 may be located in a building separate from the licensed

1 location of a facility, but shall not be more than 1,000 feet
2 from the licensed location of the facility and must meet all of
3 the facility standards applicable to the licensed location. If
4 the triage center does operate in a separate building, safety
5 personnel shall be provided, on site, 24 hours per day and the
6 triage center shall meet all other staffing requirements
7 without counting any staff employed in the main facility
8 building.

9 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14.)

10 Section 120. The Home Health, Home Services, and Home
11 Nursing Agency Licensing Act is amended by changing Section
12 2.08 as follows:

13 (210 ILCS 55/2.08)

14 Sec. 2.08. "Home services agency" means an agency that
15 provides services directly, or acts as a placement agency, for
16 the purpose of placing individuals as workers providing home
17 services for consumers in their personal residences. "Home
18 services agency" does not include agencies licensed under the
19 Nurse Agency Licensing Act, the Hospital Licensing Act, the
20 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD
21 Act, the Specialized Mental Health Rehabilitation Act of 2013,
22 or the Assisted Living and Shared Housing Act and does not
23 include an agency that limits its business exclusively to
24 providing housecleaning services. Programs providing services

1 exclusively through the Community Care Program of the Illinois
2 Department on Aging, the Department of Human Services Office of
3 Rehabilitation Services, or the United States Department of
4 Veterans Affairs are not considered to be a home services
5 agency under this Act.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
7 eff. 7-13-12; 98-104, eff. 7-22-13.)

8 Section 125. The Hospice Program Licensing Act is amended
9 by changing Sections 3 and 4 as follows:

10 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

11 Sec. 3. Definitions. As used in this Act, unless the
12 context otherwise requires:

13 (a) "Bereavement" means the period of time during which the
14 hospice patient's family experiences and adjusts to the death
15 of the hospice patient.

16 (a-5) "Bereavement services" means counseling services
17 provided to an individual's family after the individual's
18 death.

19 (a-10) "Attending physician" means a physician who:

20 (1) is a doctor of medicine or osteopathy; and

21 (2) is identified by an individual, at the time the
22 individual elects to receive hospice care, as having the
23 most significant role in the determination and delivery of
24 the individual's medical care.

1 (b) "Department" means the Illinois Department of Public
2 Health.

3 (c) "Director" means the Director of the Illinois
4 Department of Public Health.

5 (d) "Hospice care" means a program of palliative care that
6 provides for the physical, emotional, and spiritual care needs
7 of a terminally ill patient and his or her family. The goal of
8 such care is to achieve the highest quality of life as defined
9 by the patient and his or her family through the relief of
10 suffering and control of symptoms.

11 (e) "Hospice care team" means an interdisciplinary group or
12 groups composed of individuals who provide or supervise the
13 care and services offered by the hospice.

14 (f) "Hospice patient" means a terminally ill person
15 receiving hospice services.

16 (g) "Hospice patient's family" means a hospice patient's
17 immediate family consisting of a spouse, sibling, child, parent
18 and those individuals designated as such by the patient for the
19 purposes of this Act.

20 (g-1) "Hospice residence" means a separately licensed
21 home, apartment building, or similar building providing living
22 quarters:

23 (1) that is owned or operated by a person licensed to
24 operate as a comprehensive hospice; and

25 (2) at which hospice services are provided to facility
26 residents.

1 A building that is licensed under the Hospital Licensing
2 Act, the Nursing Home Care Act, the Specialized Mental Health
3 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
4 the MC/DD Act is not a hospice residence.

5 (h) "Hospice services" means a range of professional and
6 other supportive services provided to a hospice patient and his
7 or her family. These services may include, but are not limited
8 to, physician services, nursing services, medical social work
9 services, spiritual counseling services, bereavement services,
10 and volunteer services.

11 (h-5) "Hospice program" means a licensed public agency or
12 private organization, or a subdivision of either of those, that
13 is primarily engaged in providing care to terminally ill
14 individuals through a program of home care or inpatient care,
15 or both home care and inpatient care, utilizing a medically
16 directed interdisciplinary hospice care team of professionals
17 or volunteers, or both professionals and volunteers. A hospice
18 program may be licensed as a comprehensive hospice program or a
19 volunteer hospice program.

20 (h-10) "Comprehensive hospice" means a program that
21 provides hospice services and meets the minimum standards for
22 certification under the Medicare program set forth in the
23 Conditions of Participation in 42 CFR Part 418 but is not
24 required to be Medicare-certified.

25 (i) "Palliative care" means the management of pain and
26 other distressing symptoms that incorporates medical, nursing,

1 psychosocial, and spiritual care according to the needs,
2 values, beliefs, and culture or cultures of the patient and his
3 or her family. The evaluation and treatment is
4 patient-centered, with a focus on the central role of the
5 family unit in decision-making.

6 (j) "Hospice service plan" means a plan detailing the
7 specific hospice services offered by a comprehensive or
8 volunteer hospice program, and the administrative and direct
9 care personnel responsible for those services. The plan shall
10 include but not be limited to:

11 (1) Identification of the person or persons
12 administratively responsible for the program.

13 (2) The estimated average monthly patient census.

14 (3) The proposed geographic area the hospice will
15 serve.

16 (4) A listing of those hospice services provided
17 directly by the hospice, and those hospice services
18 provided indirectly through a contractual agreement.

19 (5) The name and qualifications of those persons or
20 entities under contract to provide indirect hospice
21 services.

22 (6) The name and qualifications of those persons
23 providing direct hospice services, with the exception of
24 volunteers.

25 (7) A description of how the hospice plans to utilize
26 volunteers in the provision of hospice services.

1 (8) A description of the program's record keeping
2 system.

3 (k) "Terminally ill" means a medical prognosis by a
4 physician licensed to practice medicine in all of its branches
5 that a patient has an anticipated life expectancy of one year
6 or less.

7 (l) "Volunteer" means a person who offers his or her
8 services to a hospice without compensation. Reimbursement for a
9 volunteer's expenses in providing hospice service shall not be
10 considered compensation.

11 (1-5) "Employee" means a paid or unpaid member of the staff
12 of a hospice program, or, if the hospice program is a
13 subdivision of an agency or organization, of the agency or
14 organization, who is appropriately trained and assigned to the
15 hospice program. "Employee" also means a volunteer whose duties
16 are prescribed by the hospice program and whose performance of
17 those duties is supervised by the hospice program.

18 (1-10) "Representative" means an individual who has been
19 authorized under State law to terminate an individual's medical
20 care or to elect or revoke the election of hospice care on
21 behalf of a terminally ill individual who is mentally or
22 physically incapacitated.

23 (m) "Volunteer hospice" means a program which provides
24 hospice services to patients regardless of their ability to
25 pay, with emphasis on the utilization of volunteers to provide
26 services, under the administration of a not-for-profit agency.

1 This definition does not prohibit the employment of staff.

2 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
3 eff. 7-13-12; 98-104, eff. 7-22-13.)

4 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

5 Sec. 4. License.

6 (a) No person shall establish, conduct or maintain a
7 comprehensive or volunteer hospice program without first
8 obtaining a license from the Department. A hospice residence
9 may be operated only at the locations listed on the license. A
10 comprehensive hospice program owning or operating a hospice
11 residence is not subject to the provisions of the Nursing Home
12 Care Act, the Specialized Mental Health Rehabilitation Act of
13 2013, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act in
14 owning or operating a hospice residence.

15 (b) No public or private agency shall advertise or present
16 itself to the public as a comprehensive or volunteer hospice
17 program which provides hospice services without meeting the
18 provisions of subsection (a).

19 (c) The license shall be valid only in the possession of
20 the hospice to which it was originally issued and shall not be
21 transferred or assigned to any other person, agency, or
22 corporation.

23 (d) The license shall be renewed annually.

24 (e) The license shall be displayed in a conspicuous place
25 inside the hospice program office.

1 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
2 eff. 7-13-12; 98-104, eff. 7-22-13.)

3 Section 130. The Hospital Licensing Act is amended by
4 changing Sections 3, 6.09, 6.09a, and 7 as follows:

5 (210 ILCS 85/3)

6 Sec. 3. As used in this Act:

7 (A) "Hospital" means any institution, place, building,
8 buildings on a campus, or agency, public or private, whether
9 organized for profit or not, devoted primarily to the
10 maintenance and operation of facilities for the diagnosis and
11 treatment or care of 2 or more unrelated persons admitted for
12 overnight stay or longer in order to obtain medical, including
13 obstetric, psychiatric and nursing, care of illness, disease,
14 injury, infirmity, or deformity.

15 The term "hospital", without regard to length of stay,
16 shall also include:

17 (a) any facility which is devoted primarily to
18 providing psychiatric and related services and programs
19 for the diagnosis and treatment or care of 2 or more
20 unrelated persons suffering from emotional or nervous
21 diseases;

22 (b) all places where pregnant females are received,
23 cared for, or treated during delivery irrespective of the
24 number of patients received.

1 The term "hospital" includes general and specialized
2 hospitals, tuberculosis sanitarium, mental or psychiatric
3 hospitals and sanitarium, and includes maternity homes,
4 lying-in homes, and homes for unwed mothers in which care is
5 given during delivery.

6 The term "hospital" does not include:

7 (1) any person or institution required to be licensed
8 pursuant to the Nursing Home Care Act, the Specialized
9 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
10 Community Care Act, or the MC/DD Act;

11 (2) hospitalization or care facilities maintained by
12 the State or any department or agency thereof, where such
13 department or agency has authority under law to establish
14 and enforce standards for the hospitalization or care
15 facilities under its management and control;

16 (3) hospitalization or care facilities maintained by
17 the federal government or agencies thereof;

18 (4) hospitalization or care facilities maintained by
19 any university or college established under the laws of
20 this State and supported principally by public funds raised
21 by taxation;

22 (5) any person or facility required to be licensed
23 pursuant to the Alcoholism and Other Drug Abuse and
24 Dependency Act;

25 (6) any facility operated solely by and for persons who
26 rely exclusively upon treatment by spiritual means through

1 prayer, in accordance with the creed or tenets of any
2 well-recognized church or religious denomination;

3 (7) an Alzheimer's disease management center
4 alternative health care model licensed under the
5 Alternative Health Care Delivery Act; or

6 (8) any veterinary hospital or clinic operated by a
7 veterinarian or veterinarians licensed under the
8 Veterinary Medicine and Surgery Practice Act of 2004 or
9 maintained by a State-supported or publicly funded
10 university or college.

11 (B) "Person" means the State, and any political subdivision
12 or municipal corporation, individual, firm, partnership,
13 corporation, company, association, or joint stock association,
14 or the legal successor thereof.

15 (C) "Department" means the Department of Public Health of
16 the State of Illinois.

17 (D) "Director" means the Director of Public Health of the
18 State of Illinois.

19 (E) "Perinatal" means the period of time between the
20 conception of an infant and the end of the first month after
21 birth.

22 (F) "Federally designated organ procurement agency" means
23 the organ procurement agency designated by the Secretary of the
24 U.S. Department of Health and Human Services for the service
25 area in which a hospital is located; except that in the case of
26 a hospital located in a county adjacent to Wisconsin which

1 currently contracts with an organ procurement agency located in
2 Wisconsin that is not the organ procurement agency designated
3 by the U.S. Secretary of Health and Human Services for the
4 service area in which the hospital is located, if the hospital
5 applies for a waiver pursuant to 42 USC 1320b-8(a), it may
6 designate an organ procurement agency located in Wisconsin to
7 be thereafter deemed its federally designated organ
8 procurement agency for the purposes of this Act.

9 (G) "Tissue bank" means any facility or program operating
10 in Illinois that is certified by the American Association of
11 Tissue Banks or the Eye Bank Association of America and is
12 involved in procuring, furnishing, donating, or distributing
13 corneas, bones, or other human tissue for the purpose of
14 injecting, transfusing, or transplanting any of them into the
15 human body. "Tissue bank" does not include a licensed blood
16 bank. For the purposes of this Act, "tissue" does not include
17 organs.

18 (H) "Campus", as this terms applies to operations, has the
19 same meaning as the term "campus" as set forth in federal
20 Medicare regulations, 42 CFR 413.65.

21 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
22 eff. 7-13-12; 98-104, eff. 7-22-13.)

23 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

24 Sec. 6.09. (a) In order to facilitate the orderly
25 transition of aged and disabled patients from hospitals to

1 post-hospital care, whenever a patient who qualifies for the
2 federal Medicare program is hospitalized, the patient shall be
3 notified of discharge at least 24 hours prior to discharge from
4 the hospital. With regard to pending discharges to a skilled
5 nursing facility, the hospital must notify the case
6 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
7 least 24 hours prior to discharge. When the assessment is
8 completed in the hospital, the case coordination unit shall
9 provide the discharge planner with a copy of the prescreening
10 information and accompanying materials, which the discharge
11 planner shall transmit when the patient is discharged to a
12 skilled nursing facility. If home health services are ordered,
13 the hospital must inform its designated case coordination unit,
14 as defined in 89 Ill. Adm. Code 240.260, of the pending
15 discharge and must provide the patient with the case
16 coordination unit's telephone number and other contact
17 information.

18 (b) Every hospital shall develop procedures for a physician
19 with medical staff privileges at the hospital or any
20 appropriate medical staff member to provide the discharge
21 notice prescribed in subsection (a) of this Section. The
22 procedures must include prohibitions against discharging or
23 referring a patient to any of the following if unlicensed,
24 uncertified, or unregistered: (i) a board and care facility, as
25 defined in the Board and Care Home Act; (ii) an assisted living
26 and shared housing establishment, as defined in the Assisted

1 Living and Shared Housing Act; (iii) a facility licensed under
2 the Nursing Home Care Act, the Specialized Mental Health
3 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
4 the MC/DD Act; (iv) a supportive living facility, as defined in
5 Section 5-5.01a of the Illinois Public Aid Code; or (v) a
6 free-standing hospice facility licensed under the Hospice
7 Program Licensing Act if licensure, certification, or
8 registration is required. The Department of Public Health shall
9 annually provide hospitals with a list of licensed, certified,
10 or registered board and care facilities, assisted living and
11 shared housing establishments, nursing homes, supportive
12 living facilities, facilities licensed under the ID/DD
13 Community Care Act, the MC/DD Act, or the Specialized Mental
14 Health Rehabilitation Act of 2013, and hospice facilities.
15 Reliance upon this list by a hospital shall satisfy compliance
16 with this requirement. The procedure may also include a waiver
17 for any case in which a discharge notice is not feasible due to
18 a short length of stay in the hospital by the patient, or for
19 any case in which the patient voluntarily desires to leave the
20 hospital before the expiration of the 24 hour period.

21 (c) At least 24 hours prior to discharge from the hospital,
22 the patient shall receive written information on the patient's
23 right to appeal the discharge pursuant to the federal Medicare
24 program, including the steps to follow to appeal the discharge
25 and the appropriate telephone number to call in case the
26 patient intends to appeal the discharge.

1 (d) Before transfer of a patient to a long term care
2 facility licensed under the Nursing Home Care Act where elderly
3 persons reside, a hospital shall as soon as practicable
4 initiate a name-based criminal history background check by
5 electronic submission to the Department of State Police for all
6 persons between the ages of 18 and 70 years; provided, however,
7 that a hospital shall be required to initiate such a background
8 check only with respect to patients who:

9 (1) are transferring to a long term care facility for
10 the first time;

11 (2) have been in the hospital more than 5 days;

12 (3) are reasonably expected to remain at the long term
13 care facility for more than 30 days;

14 (4) have a known history of serious mental illness or
15 substance abuse; and

16 (5) are independently ambulatory or mobile for more
17 than a temporary period of time.

18 A hospital may also request a criminal history background
19 check for a patient who does not meet any of the criteria set
20 forth in items (1) through (5).

21 A hospital shall notify a long term care facility if the
22 hospital has initiated a criminal history background check on a
23 patient being discharged to that facility. In all circumstances
24 in which the hospital is required by this subsection to
25 initiate the criminal history background check, the transfer to
26 the long term care facility may proceed regardless of the

1 availability of criminal history results. Upon receipt of the
2 results, the hospital shall promptly forward the results to the
3 appropriate long term care facility. If the results of the
4 background check are inconclusive, the hospital shall have no
5 additional duty or obligation to seek additional information
6 from, or about, the patient.

7 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-104, eff. 7-22-13; 98-651, eff. 6-16-14.)

9 (210 ILCS 85/6.09a)

10 Sec. 6.09a. Report of Death. Every hospital shall promptly
11 report the death of a person readily known to be, without an
12 investigation by the hospital, a resident of a facility
13 licensed under the ID/DD ~~MR/DD~~ Community Care Act or the MC/DD
14 Act, to the coroner or medical examiner. The coroner or medical
15 examiner shall promptly respond to the report by accepting or
16 not accepting the body for investigation.

17 (Source: P.A. 97-38, eff. 6-28-11.)

18 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

19 Sec. 7. (a) The Director after notice and opportunity for
20 hearing to the applicant or licensee may deny, suspend, or
21 revoke a permit to establish a hospital or deny, suspend, or
22 revoke a license to open, conduct, operate, and maintain a
23 hospital in any case in which he finds that there has been a
24 substantial failure to comply with the provisions of this Act,

1 the Hospital Report Card Act, or the Illinois Adverse Health
2 Care Events Reporting Law of 2005 or the standards, rules, and
3 regulations established by virtue of any of those Acts. The
4 Department may impose fines on hospitals, not to exceed \$500
5 per occurrence, for failing to (1) initiate a criminal
6 background check on a patient that meets the criteria for
7 hospital-initiated background checks or (2) report the death of
8 a person known to be a resident of a facility licensed under
9 the ID/DD ~~MR/DD~~ Community Care Act or the MC/DD Act to the
10 coroner or medical examiner within 24 hours as required by
11 Section 6.09a of this Act. In assessing whether to impose such
12 a fine for failure to initiate a criminal background check, the
13 Department shall consider various factors including, but not
14 limited to, whether the hospital has engaged in a pattern or
15 practice of failing to initiate criminal background checks.
16 Money from fines shall be deposited into the Long Term Care
17 Provider Fund.

18 (b) Such notice shall be effected by registered mail or by
19 personal service setting forth the particular reasons for the
20 proposed action and fixing a date, not less than 15 days from
21 the date of such mailing or service, at which time the
22 applicant or licensee shall be given an opportunity for a
23 hearing. Such hearing shall be conducted by the Director or by
24 an employee of the Department designated in writing by the
25 Director as Hearing Officer to conduct the hearing. On the
26 basis of any such hearing, or upon default of the applicant or

1 licensee, the Director shall make a determination specifying
2 his findings and conclusions. In case of a denial to an
3 applicant of a permit to establish a hospital, such
4 determination shall specify the subsection of Section 6 under
5 which the permit was denied and shall contain findings of fact
6 forming the basis of such denial. A copy of such determination
7 shall be sent by registered mail or served personally upon the
8 applicant or licensee. The decision denying, suspending, or
9 revoking a permit or a license shall become final 35 days after
10 it is so mailed or served, unless the applicant or licensee,
11 within such 35 day period, petitions for review pursuant to
12 Section 13.

13 (c) The procedure governing hearings authorized by this
14 Section shall be in accordance with rules promulgated by the
15 Department and approved by the Hospital Licensing Board. A full
16 and complete record shall be kept of all proceedings, including
17 the notice of hearing, complaint, and all other documents in
18 the nature of pleadings, written motions filed in the
19 proceedings, and the report and orders of the Director and
20 Hearing Officer. All testimony shall be reported but need not
21 be transcribed unless the decision is appealed pursuant to
22 Section 13. A copy or copies of the transcript may be obtained
23 by any interested party on payment of the cost of preparing
24 such copy or copies.

25 (d) The Director or Hearing Officer shall upon his own
26 motion, or on the written request of any party to the

1 proceeding, issue subpoenas requiring the attendance and the
2 giving of testimony by witnesses, and subpoenas duces tecum
3 requiring the production of books, papers, records, or
4 memoranda. All subpoenas and subpoenas duces tecum issued under
5 the terms of this Act may be served by any person of full age.
6 The fees of witnesses for attendance and travel shall be the
7 same as the fees of witnesses before the Circuit Court of this
8 State, such fees to be paid when the witness is excused from
9 further attendance. When the witness is subpoenaed at the
10 instance of the Director, or Hearing Officer, such fees shall
11 be paid in the same manner as other expenses of the Department,
12 and when the witness is subpoenaed at the instance of any other
13 party to any such proceeding the Department may require that
14 the cost of service of the subpoena or subpoena duces tecum and
15 the fee of the witness be borne by the party at whose instance
16 the witness is summoned. In such case, the Department in its
17 discretion, may require a deposit to cover the cost of such
18 service and witness fees. A subpoena or subpoena duces tecum
19 issued as aforesaid shall be served in the same manner as a
20 subpoena issued out of a court.

21 (e) Any Circuit Court of this State upon the application of
22 the Director, or upon the application of any other party to the
23 proceeding, may, in its discretion, compel the attendance of
24 witnesses, the production of books, papers, records, or
25 memoranda and the giving of testimony before the Director or
26 Hearing Officer conducting an investigation or holding a

1 hearing authorized by this Act, by an attachment for contempt,
2 or otherwise, in the same manner as production of evidence may
3 be compelled before the court.

4 (f) The Director or Hearing Officer, or any party in an
5 investigation or hearing before the Department, may cause the
6 depositions of witnesses within the State to be taken in the
7 manner prescribed by law for like depositions in civil actions
8 in courts of this State, and to that end compel the attendance
9 of witnesses and the production of books, papers, records, or
10 memoranda.

11 (Source: P.A. 96-1372, eff. 7-29-10; 97-38, eff. 6-28-11.)

12 Section 135. The Language Assistance Services Act is
13 amended by changing Section 10 as follows:

14 (210 ILCS 87/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Department" means the Department of Public Health.

17 "Interpreter" means a person fluent in English and in the
18 necessary language of the patient who can accurately speak,
19 read, and readily interpret the necessary second language, or a
20 person who can accurately sign and read sign language.
21 Interpreters shall have the ability to translate the names of
22 body parts and to describe completely symptoms and injuries in
23 both languages. Interpreters may include members of the medical
24 or professional staff.

1 "Language or communication barriers" means either of the
2 following:

3 (1) With respect to spoken language, barriers that are
4 experienced by limited-English-speaking or
5 non-English-speaking individuals who speak the same
6 primary language, if those individuals constitute at least
7 5% of the patients served by the health facility annually.

8 (2) With respect to sign language, barriers that are
9 experienced by individuals who are deaf and whose primary
10 language is sign language.

11 "Health facility" means a hospital licensed under the
12 Hospital Licensing Act, a long-term care facility licensed
13 under the Nursing Home Care Act, or a facility licensed under
14 the ID/DD Community Care Act, the MC/DD Act, or the Specialized
15 Mental Health Rehabilitation Act of 2013.

16 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
17 eff. 7-13-12; 98-104, eff. 7-22-13.)

18 Section 140. The Community-Integrated Living Arrangements
19 Licensure and Certification Act is amended by changing Section
20 4 as follows:

21 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

22 Sec. 4. (a) Any community mental health or developmental
23 services agency who wishes to develop and support a variety of
24 community-integrated living arrangements may do so pursuant to

1 a license issued by the Department under this Act. However,
2 programs established under or otherwise subject to the Child
3 Care Act of 1969, the Nursing Home Care Act, the Specialized
4 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
5 Community Care Act, or the MC/DD Act, as now or hereafter
6 amended, shall remain subject thereto, and this Act shall not
7 be construed to limit the application of those Acts.

8 (b) The system of licensure established under this Act
9 shall be for the purposes of:

10 (1) Insuring that all recipients residing in
11 community-integrated living arrangements are receiving
12 appropriate community-based services, including treatment,
13 training and habilitation or rehabilitation;

14 (2) Insuring that recipients' rights are protected and
15 that all programs provided to and placements arranged for
16 recipients comply with this Act, the Mental Health and
17 Developmental Disabilities Code, and applicable Department
18 rules and regulations;

19 (3) Maintaining the integrity of communities by
20 requiring regular monitoring and inspection of placements
21 and other services provided in community-integrated living
22 arrangements.

23 The licensure system shall be administered by a quality
24 assurance unit within the Department which shall be
25 administratively independent of units responsible for funding
26 of agencies or community services.

1 (c) As a condition of being licensed by the Department as a
2 community mental health or developmental services agency under
3 this Act, the agency shall certify to the Department that:

4 (1) All recipients residing in community-integrated
5 living arrangements are receiving appropriate
6 community-based services, including treatment, training
7 and habilitation or rehabilitation;

8 (2) All programs provided to and placements arranged
9 for recipients are supervised by the agency; and

10 (3) All programs provided to and placements arranged
11 for recipients comply with this Act, the Mental Health and
12 Developmental Disabilities Code, and applicable Department
13 rules and regulations.

14 (d) An applicant for licensure as a community mental health
15 or developmental services agency under this Act shall submit an
16 application pursuant to the application process established by
17 the Department by rule and shall pay an application fee in an
18 amount established by the Department, which amount shall not be
19 more than \$200.

20 (e) If an applicant meets the requirements established by
21 the Department to be licensed as a community mental health or
22 developmental services agency under this Act, after payment of
23 the licensing fee, the Department shall issue a license valid
24 for 3 years from the date thereof unless suspended or revoked
25 by the Department or voluntarily surrendered by the agency.

26 (f) Upon application to the Department, the Department may

1 issue a temporary permit to an applicant for a 6-month period
2 to allow the holder of such permit reasonable time to become
3 eligible for a license under this Act.

4 (g) (1) The Department may conduct site visits to an agency
5 licensed under this Act, or to any program or placement
6 certified by the agency, and inspect the records or premises,
7 or both, of such agency, program or placement as it deems
8 appropriate, for the purpose of determining compliance with
9 this Act, the Mental Health and Developmental Disabilities
10 Code, and applicable Department rules and regulations.

11 (2) If the Department determines that an agency licensed
12 under this Act is not in compliance with this Act or the rules
13 and regulations promulgated under this Act, the Department
14 shall serve a notice of violation upon the licensee. Each
15 notice of violation shall be prepared in writing and shall
16 specify the nature of the violation, the statutory provision or
17 rule alleged to have been violated, and that the licensee
18 submit a plan of correction to the Department if required. The
19 notice shall also inform the licensee of any other action which
20 the Department might take pursuant to this Act and of the right
21 to a hearing.

22 (g-5) As determined by the Department, a disproportionate
23 number or percentage of licensure complaints; a
24 disproportionate number or percentage of substantiated cases
25 of abuse, neglect, or exploitation involving an agency; an
26 apparent unnatural death of an individual served by an agency;

1 any egregious or life-threatening abuse or neglect within an
2 agency; or any other significant event as determined by the
3 Department shall initiate a review of the agency's license by
4 the Department, as well as a review of its service agreement
5 for funding. The Department shall adopt rules to establish the
6 process by which the determination to initiate a review shall
7 be made and the timeframe to initiate a review upon the making
8 of such determination.

9 (h) Upon the expiration of any license issued under this
10 Act, a license renewal application shall be required of and a
11 license renewal fee in an amount established by the Department
12 shall be charged to a community mental health or developmental
13 services agency, provided that such fee shall not be more than
14 \$200.

15 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-441,
16 eff. 8-19-11; 97-813, eff. 7-13-12; 98-104, eff. 7-22-13.)

17 Section 145. The Child Care Act of 1969 is amended by
18 changing Section 2.06 as follows:

19 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

20 Sec. 2.06. "Child care institution" means a child care
21 facility where more than 7 children are received and maintained
22 for the purpose of providing them with care or training or
23 both. The term "child care institution" includes residential
24 schools, primarily serving ambulatory handicapped children,

1 and those operating a full calendar year, but does not include:

2 (a) Any State-operated institution for child care
3 established by legislative action;

4 (b) Any juvenile detention or shelter care home established
5 and operated by any county or child protection district
6 established under the "Child Protection Act";

7 (c) Any institution, home, place or facility operating
8 under a license pursuant to the Nursing Home Care Act, the
9 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
10 ID/DD Community Care Act, or the MC/DD Act;

11 (d) Any bona fide boarding school in which children are
12 primarily taught branches of education corresponding to those
13 taught in public schools, grades one through 12, or taught in
14 public elementary schools, high schools, or both elementary and
15 high schools, and which operates on a regular academic school
16 year basis; or

17 (e) Any facility licensed as a "group home" as defined in
18 this Act.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13.)

21 Section 150. The Health Care Worker Background Check Act is
22 amended by changing Section 15 as follows:

23 (225 ILCS 46/15)

24 Sec. 15. Definitions. In this Act:

1 "Applicant" means an individual seeking employment with a
2 health care employer who has received a bona fide conditional
3 offer of employment.

4 "Conditional offer of employment" means a bona fide offer
5 of employment by a health care employer to an applicant, which
6 is contingent upon the receipt of a report from the Department
7 of Public Health indicating that the applicant does not have a
8 record of conviction of any of the criminal offenses enumerated
9 in Section 25.

10 "Direct care" means the provision of nursing care or
11 assistance with feeding, dressing, movement, bathing,
12 toileting, or other personal needs, including home services as
13 defined in the Home Health, Home Services, and Home Nursing
14 Agency Licensing Act. The entity responsible for inspecting and
15 licensing, certifying, or registering the health care employer
16 may, by administrative rule, prescribe guidelines for
17 interpreting this definition with regard to the health care
18 employers that it licenses.

19 "Disqualifying offenses" means those offenses set forth in
20 Section 25 of this Act.

21 "Employee" means any individual hired, employed, or
22 retained to which this Act applies.

23 "Fingerprint-based criminal history records check" means a
24 livescan fingerprint-based criminal history records check
25 submitted as a fee applicant inquiry in the form and manner
26 prescribed by the Department of State Police.

1 "Health care employer" means:

2 (1) the owner or licensee of any of the following:

3 (i) a community living facility, as defined in the
4 Community Living Facilities Act;

5 (ii) a life care facility, as defined in the Life
6 Care Facilities Act;

7 (iii) a long-term care facility;

8 (iv) a home health agency, home services agency, or
9 home nursing agency as defined in the Home Health, Home
10 Services, and Home Nursing Agency Licensing Act;

11 (v) a hospice care program or volunteer hospice
12 program, as defined in the Hospice Program Licensing
13 Act;

14 (vi) a hospital, as defined in the Hospital
15 Licensing Act;

16 (vii) (blank);

17 (viii) a nurse agency, as defined in the Nurse
18 Agency Licensing Act;

19 (ix) a respite care provider, as defined in the
20 Respite Program Act;

21 (ix-a) an establishment licensed under the
22 Assisted Living and Shared Housing Act;

23 (x) a supportive living program, as defined in the
24 Illinois Public Aid Code;

25 (xi) early childhood intervention programs as
26 described in 59 Ill. Adm. Code 121;

1 (xii) the University of Illinois Hospital,
2 Chicago;

3 (xiii) programs funded by the Department on Aging
4 through the Community Care Program;

5 (xiv) programs certified to participate in the
6 Supportive Living Program authorized pursuant to
7 Section 5-5.01a of the Illinois Public Aid Code;

8 (xv) programs listed by the Emergency Medical
9 Services (EMS) Systems Act as Freestanding Emergency
10 Centers;

11 (xvi) locations licensed under the Alternative
12 Health Care Delivery Act;

13 (2) a day training program certified by the Department
14 of Human Services;

15 (3) a community integrated living arrangement operated
16 by a community mental health and developmental service
17 agency, as defined in the Community-Integrated Living
18 Arrangements Licensing and Certification Act; or

19 (4) the State Long Term Care Ombudsman Program,
20 including any regional long term care ombudsman programs
21 under Section 4.04 of the Illinois Act on the Aging, only
22 for the purpose of securing background checks.

23 "Initiate" means obtaining from a student, applicant, or
24 employee his or her social security number, demographics, a
25 disclosure statement, and an authorization for the Department
26 of Public Health or its designee to request a fingerprint-based

1 criminal history records check; transmitting this information
2 electronically to the Department of Public Health; conducting
3 Internet searches on certain web sites, including without
4 limitation the Illinois Sex Offender Registry, the Department
5 of Corrections' Sex Offender Search Engine, the Department of
6 Corrections' Inmate Search Engine, the Department of
7 Corrections Wanted Fugitives Search Engine, the National Sex
8 Offender Public Registry, and the website of the Health and
9 Human Services Office of Inspector General to determine if the
10 applicant has been adjudicated a sex offender, has been a
11 prison inmate, or has committed Medicare or Medicaid fraud, or
12 conducting similar searches as defined by rule; and having the
13 student, applicant, or employee's fingerprints collected and
14 transmitted electronically to the Department of State Police.

15 "Livescan vendor" means an entity whose equipment has been
16 certified by the Department of State Police to collect an
17 individual's demographics and inkless fingerprints and, in a
18 manner prescribed by the Department of State Police and the
19 Department of Public Health, electronically transmit the
20 fingerprints and required data to the Department of State
21 Police and a daily file of required data to the Department of
22 Public Health. The Department of Public Health shall negotiate
23 a contract with one or more vendors that effectively
24 demonstrate that the vendor has 2 or more years of experience
25 transmitting fingerprints electronically to the Department of
26 State Police and that the vendor can successfully transmit the

1 required data in a manner prescribed by the Department of
2 Public Health. Vendor authorization may be further defined by
3 administrative rule.

4 "Long-term care facility" means a facility licensed by the
5 State or certified under federal law as a long-term care
6 facility, including without limitation facilities licensed
7 under the Nursing Home Care Act, the Specialized Mental Health
8 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
9 the MC/DD Act, a supportive living facility, an assisted living
10 establishment, or a shared housing establishment or registered
11 as a board and care home.

12 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 98-104, eff. 7-22-13.)

14 Section 155. The Nursing Home Administrators Licensing and
15 Disciplinary Act is amended by changing Sections 4 and 17 as
16 follows:

17 (225 ILCS 70/4) (from Ch. 111, par. 3654)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 4. Definitions. For purposes of this Act, the
20 following definitions shall have the following meanings,
21 except where the context requires otherwise:

22 (1) "Act" means the Nursing Home Administrators
23 Licensing and Disciplinary Act.

24 (2) "Department" means the Department of Financial and

1 Professional Regulation.

2 (3) "Secretary" means the Secretary of Financial and
3 Professional Regulation.

4 (4) "Board" means the Nursing Home Administrators
5 Licensing and Disciplinary Board appointed by the
6 Governor.

7 (5) "Nursing home administrator" means the individual
8 licensed under this Act and directly responsible for
9 planning, organizing, directing and supervising the
10 operation of a nursing home, or who in fact performs such
11 functions, whether or not such functions are delegated to
12 one or more other persons.

13 (6) "Nursing home" or "facility" means any entity that
14 is required to be licensed by the Department of Public
15 Health under the Nursing Home Care Act, as amended, other
16 than a sheltered care home as defined thereunder, and
17 includes private homes, institutions, buildings,
18 residences, or other places, whether operated for profit or
19 not, irrespective of the names attributed to them, county
20 homes for the infirm and chronically ill operated pursuant
21 to the County Nursing Home Act, as amended, and any similar
22 institutions operated by a political subdivision of the
23 State of Illinois that provide, though their ownership or
24 management, maintenance, personal care, and nursing for 3
25 or more persons, not related to the owner by blood or
26 marriage, or any similar facilities in which maintenance is

1 provided to 3 or more persons who by reason of illness of
2 physical infirmity require personal care and nursing. The
3 term also means any facility licensed under the ID/DD
4 Community Care Act, the MC/DD Act, or the Specialized
5 Mental Health Rehabilitation Act of 2013.

6 (7) "Maintenance" means food, shelter and laundry.

7 (8) "Personal care" means assistance with meals,
8 dressing, movement, bathing, or other personal needs, or
9 general supervision of the physical and mental well-being
10 of an individual who because of age, physical, or mental
11 disability, emotion or behavior disorder, or an
12 intellectual disability is incapable of managing his or her
13 person, whether or not a guardian has been appointed for
14 such individual. For the purposes of this Act, this
15 definition does not include the professional services of a
16 nurse.

17 (9) "Nursing" means professional nursing or practical
18 nursing, as those terms are defined in the Nurse Practice
19 Act, for sick or infirm persons who are under the care and
20 supervision of licensed physicians or dentists.

21 (10) "Disciplinary action" means revocation,
22 suspension, probation, supervision, reprimand, required
23 education, fines or any other action taken by the
24 Department against a person holding a license.

25 (11) "Impaired" means the inability to practice with
26 reasonable skill and safety due to physical or mental

1 disabilities as evidenced by a written determination or
2 written consent based on clinical evidence including
3 deterioration through the aging process or loss of motor
4 skill, or abuse of drugs or alcohol, of sufficient degree
5 to diminish a person's ability to administer a nursing
6 home.

7 (12) "Address of record" means the designated address
8 recorded by the Department in the applicant's or licensee's
9 application file or license file maintained by the
10 Department's licensure maintenance unit. It is the duty of
11 the applicant or licensee to inform the Department of any
12 change of address, and such changes must be made either
13 through the Department's website or by contacting the
14 Department's licensure maintenance unit.

15 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
16 eff. 7-13-12; 98-104, eff. 7-22-13.)

17 (225 ILCS 70/17) (from Ch. 111, par. 3667)

18 Sec. 17. Grounds for disciplinary action.

19 (a) The Department may impose fines not to exceed \$10,000
20 or may refuse to issue or to renew, or may revoke, suspend,
21 place on probation, censure, reprimand or take other
22 disciplinary or non-disciplinary action with regard to the
23 license of any person, for any one or combination of the
24 following causes:

25 (1) Intentional material misstatement in furnishing

1 information to the Department.

2 (2) Conviction of or entry of a plea of guilty or nolo
3 contendere to any crime that is a felony under the laws of
4 the United States or any state or territory thereof or a
5 misdemeanor of which an essential element is dishonesty or
6 that is directly related to the practice of the profession
7 of nursing home administration.

8 (3) Making any misrepresentation for the purpose of
9 obtaining a license, or violating any provision of this
10 Act.

11 (4) Immoral conduct in the commission of any act, such
12 as sexual abuse or sexual misconduct, related to the
13 licensee's practice.

14 (5) Failing to respond within 30 days, to a written
15 request made by the Department for information.

16 (6) Engaging in dishonorable, unethical or
17 unprofessional conduct of a character likely to deceive,
18 defraud or harm the public.

19 (7) Habitual use or addiction to alcohol, narcotics,
20 stimulants, or any other chemical agent or drug which
21 results in the inability to practice with reasonable
22 judgment, skill or safety.

23 (8) Discipline by another U.S. jurisdiction if at least
24 one of the grounds for the discipline is the same or
25 substantially equivalent to those set forth herein.

26 (9) A finding by the Department that the licensee,

1 after having his or her license placed on probationary
2 status has violated the terms of probation.

3 (10) Willfully making or filing false records or
4 reports in his or her practice, including but not limited
5 to false records filed with State agencies or departments.

6 (11) Physical illness, mental illness, or other
7 impairment or disability, including, but not limited to,
8 deterioration through the aging process, or loss of motor
9 skill that results in the inability to practice the
10 profession with reasonable judgment, skill or safety.

11 (12) Disregard or violation of this Act or of any rule
12 issued pursuant to this Act.

13 (13) Aiding or abetting another in the violation of
14 this Act or any rule or regulation issued pursuant to this
15 Act.

16 (14) Allowing one's license to be used by an unlicensed
17 person.

18 (15) (Blank).

19 (16) Professional incompetence in the practice of
20 nursing home administration.

21 (17) Conviction of a violation of Section 12-19 or
22 subsection (a) of Section 12-4.4a of the Criminal Code of
23 1961 or the Criminal Code of 2012 for the abuse and
24 criminal neglect of a long term care facility resident.

25 (18) Violation of the Nursing Home Care Act, the
26 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~

1 the ID/DD Community Care Act, or the MC/DD Act or of any
2 rule issued under the Nursing Home Care Act, the
3 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
4 the ID/DD Community Care Act, or the MC/DD Act. A final
5 adjudication of a Type "AA" violation of the Nursing Home
6 Care Act made by the Illinois Department of Public Health,
7 as identified by rule, relating to the hiring, training,
8 planning, organizing, directing, or supervising the
9 operation of a nursing home and a licensee's failure to
10 comply with this Act or the rules adopted under this Act,
11 shall create a rebuttable presumption of a violation of
12 this subsection.

13 (19) Failure to report to the Department any adverse
14 final action taken against the licensee by a licensing
15 authority of another state, territory of the United States,
16 or foreign country; or by any governmental or law
17 enforcement agency; or by any court for acts or conduct
18 similar to acts or conduct that would constitute grounds
19 for disciplinary action under this Section.

20 (20) Failure to report to the Department the surrender
21 of a license or authorization to practice as a nursing home
22 administrator in another state or jurisdiction for acts or
23 conduct similar to acts or conduct that would constitute
24 grounds for disciplinary action under this Section.

25 (21) Failure to report to the Department any adverse
26 judgment, settlement, or award arising from a liability

1 claim related to acts or conduct similar to acts or conduct
2 that would constitute grounds for disciplinary action
3 under this Section.

4 (22) Failure to submit any required report under
5 Section 80-10 of the Nurse Practice Act.

6 All proceedings to suspend, revoke, place on probationary
7 status, or take any other disciplinary action as the Department
8 may deem proper, with regard to a license on any of the
9 foregoing grounds, must be commenced within 5 years next after
10 receipt by the Department of (i) a complaint alleging the
11 commission of or notice of the conviction order for any of the
12 acts described herein or (ii) a referral for investigation
13 under Section 3-108 of the Nursing Home Care Act.

14 The entry of an order or judgment by any circuit court
15 establishing that any person holding a license under this Act
16 is a person in need of mental treatment operates as a
17 suspension of that license. That person may resume their
18 practice only upon the entry of a Department order based upon a
19 finding by the Board that they have been determined to be
20 recovered from mental illness by the court and upon the Board's
21 recommendation that they be permitted to resume their practice.

22 The Department, upon the recommendation of the Board, may
23 adopt rules which set forth standards to be used in determining
24 what constitutes:

25 (i) when a person will be deemed sufficiently
26 rehabilitated to warrant the public trust;

1 (ii) dishonorable, unethical or unprofessional conduct
2 of a character likely to deceive, defraud, or harm the
3 public;

4 (iii) immoral conduct in the commission of any act
5 related to the licensee's practice; and

6 (iv) professional incompetence in the practice of
7 nursing home administration.

8 However, no such rule shall be admissible into evidence in
9 any civil action except for review of a licensing or other
10 disciplinary action under this Act.

11 In enforcing this Section, the Department or Board, upon a
12 showing of a possible violation, may compel any individual
13 licensed to practice under this Act, or who has applied for
14 licensure pursuant to this Act, to submit to a mental or
15 physical examination, or both, as required by and at the
16 expense of the Department. The examining physician or
17 physicians shall be those specifically designated by the
18 Department or Board. The Department or Board may order the
19 examining physician to present testimony concerning this
20 mental or physical examination of the licensee or applicant. No
21 information shall be excluded by reason of any common law or
22 statutory privilege relating to communications between the
23 licensee or applicant and the examining physician. The
24 individual to be examined may have, at his or her own expense,
25 another physician of his or her choice present during all
26 aspects of the examination. Failure of any individual to submit

1 to mental or physical examination, when directed, shall be
2 grounds for suspension of his or her license until such time as
3 the individual submits to the examination if the Department
4 finds, after notice and hearing, that the refusal to submit to
5 the examination was without reasonable cause.

6 If the Department or Board finds an individual unable to
7 practice because of the reasons set forth in this Section, the
8 Department or Board shall require such individual to submit to
9 care, counseling, or treatment by physicians approved or
10 designated by the Department or Board, as a condition, term, or
11 restriction for continued, reinstated, or renewed licensure to
12 practice; or in lieu of care, counseling, or treatment, the
13 Department may file, or the Board may recommend to the
14 Department to file, a complaint to immediately suspend, revoke,
15 or otherwise discipline the license of the individual. Any
16 individual whose license was granted pursuant to this Act or
17 continued, reinstated, renewed, disciplined or supervised,
18 subject to such terms, conditions or restrictions who shall
19 fail to comply with such terms, conditions or restrictions
20 shall be referred to the Secretary for a determination as to
21 whether the licensee shall have his or her license suspended
22 immediately, pending a hearing by the Department. In instances
23 in which the Secretary immediately suspends a license under
24 this Section, a hearing upon such person's license must be
25 convened by the Board within 30 days after such suspension and
26 completed without appreciable delay. The Department and Board

1 shall have the authority to review the subject administrator's
2 record of treatment and counseling regarding the impairment, to
3 the extent permitted by applicable federal statutes and
4 regulations safeguarding the confidentiality of medical
5 records.

6 An individual licensed under this Act, affected under this
7 Section, shall be afforded an opportunity to demonstrate to the
8 Department or Board that he or she can resume practice in
9 compliance with acceptable and prevailing standards under the
10 provisions of his or her license.

11 (b) Any individual or organization acting in good faith,
12 and not in a wilful and wanton manner, in complying with this
13 Act by providing any report or other information to the
14 Department, or assisting in the investigation or preparation of
15 such information, or by participating in proceedings of the
16 Department, or by serving as a member of the Board, shall not,
17 as a result of such actions, be subject to criminal prosecution
18 or civil damages.

19 (c) Members of the Board, and persons retained under
20 contract to assist and advise in an investigation, shall be
21 indemnified by the State for any actions occurring within the
22 scope of services on or for the Board, done in good faith and
23 not wilful and wanton in nature. The Attorney General shall
24 defend all such actions unless he or she determines either that
25 there would be a conflict of interest in such representation or
26 that the actions complained of were not in good faith or were

1 wilful and wanton.

2 Should the Attorney General decline representation, a
3 person entitled to indemnification under this Section shall
4 have the right to employ counsel of his or her choice, whose
5 fees shall be provided by the State, after approval by the
6 Attorney General, unless there is a determination by a court
7 that the member's actions were not in good faith or were wilful
8 and wanton.

9 A person entitled to indemnification under this Section
10 must notify the Attorney General within 7 days of receipt of
11 notice of the initiation of any action involving services of
12 the Board. Failure to so notify the Attorney General shall
13 constitute an absolute waiver of the right to a defense and
14 indemnification.

15 The Attorney General shall determine within 7 days after
16 receiving such notice, whether he or she will undertake to
17 represent a person entitled to indemnification under this
18 Section.

19 (d) The determination by a circuit court that a licensee is
20 subject to involuntary admission or judicial admission as
21 provided in the Mental Health and Developmental Disabilities
22 Code, as amended, operates as an automatic suspension. Such
23 suspension will end only upon a finding by a court that the
24 patient is no longer subject to involuntary admission or
25 judicial admission and issues an order so finding and
26 discharging the patient; and upon the recommendation of the

1 Board to the Secretary that the licensee be allowed to resume
2 his or her practice.

3 (e) The Department may refuse to issue or may suspend the
4 license of any person who fails to file a return, or to pay the
5 tax, penalty or interest shown in a filed return, or to pay any
6 final assessment of tax, penalty or interest, as required by
7 any tax Act administered by the Department of Revenue, until
8 such time as the requirements of any such tax Act are
9 satisfied.

10 (f) The Department of Public Health shall transmit to the
11 Department a list of those facilities which receive an "A"
12 violation as defined in Section 1-129 of the Nursing Home Care
13 Act.

14 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12;
15 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-104, eff.
16 7-22-13; 98-990, eff. 8-18-14.)

17 Section 160. The Pharmacy Practice Act is amended by
18 changing Section 3 as follows:

19 (225 ILCS 85/3)

20 (Section scheduled to be repealed on January 1, 2018)

21 Sec. 3. Definitions. For the purpose of this Act, except
22 where otherwise limited therein:

23 (a) "Pharmacy" or "drugstore" means and includes every
24 store, shop, pharmacy department, or other place where

1 pharmacist care is provided by a pharmacist (1) where drugs,
2 medicines, or poisons are dispensed, sold or offered for sale
3 at retail, or displayed for sale at retail; or (2) where
4 prescriptions of physicians, dentists, advanced practice
5 nurses, physician assistants, veterinarians, podiatric
6 physicians, or optometrists, within the limits of their
7 licenses, are compounded, filled, or dispensed; or (3) which
8 has upon it or displayed within it, or affixed to or used in
9 connection with it, a sign bearing the word or words
10 "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care",
11 "Apothecary", "Drugstore", "Medicine Store", "Prescriptions",
12 "Drugs", "Dispensary", "Medicines", or any word or words of
13 similar or like import, either in the English language or any
14 other language; or (4) where the characteristic prescription
15 sign (Rx) or similar design is exhibited; or (5) any store, or
16 shop, or other place with respect to which any of the above
17 words, objects, signs or designs are used in any advertisement.

18 (b) "Drugs" means and includes (1) articles recognized in
19 the official United States Pharmacopoeia/National Formulary
20 (USP/NF), or any supplement thereto and being intended for and
21 having for their main use the diagnosis, cure, mitigation,
22 treatment or prevention of disease in man or other animals, as
23 approved by the United States Food and Drug Administration, but
24 does not include devices or their components, parts, or
25 accessories; and (2) all other articles intended for and having
26 for their main use the diagnosis, cure, mitigation, treatment

1 or prevention of disease in man or other animals, as approved
2 by the United States Food and Drug Administration, but does not
3 include devices or their components, parts, or accessories; and
4 (3) articles (other than food) having for their main use and
5 intended to affect the structure or any function of the body of
6 man or other animals; and (4) articles having for their main
7 use and intended for use as a component or any articles
8 specified in clause (1), (2) or (3); but does not include
9 devices or their components, parts or accessories.

10 (c) "Medicines" means and includes all drugs intended for
11 human or veterinary use approved by the United States Food and
12 Drug Administration.

13 (d) "Practice of pharmacy" means (1) the interpretation and
14 the provision of assistance in the monitoring, evaluation, and
15 implementation of prescription drug orders; (2) the dispensing
16 of prescription drug orders; (3) participation in drug and
17 device selection; (4) drug administration limited to the
18 administration of oral, topical, injectable, and inhalation as
19 follows: in the context of patient education on the proper use
20 or delivery of medications; vaccination of patients 14 years of
21 age and older pursuant to a valid prescription or standing
22 order, by a physician licensed to practice medicine in all its
23 branches, upon completion of appropriate training, including
24 how to address contraindications and adverse reactions set
25 forth by rule, with notification to the patient's physician and
26 appropriate record retention, or pursuant to hospital pharmacy

1 and therapeutics committee policies and procedures; (5)
2 vaccination of patients ages 10 through 13 limited to the
3 Influenza (inactivated influenza vaccine and live attenuated
4 influenza intranasal vaccine) and Tdap (defined as tetanus,
5 diphtheria, acellular pertussis) vaccines, pursuant to a valid
6 prescription or standing order, by a physician licensed to
7 practice medicine in all its branches, upon completion of
8 appropriate training, including how to address
9 contraindications and adverse reactions set forth by rule, with
10 notification to the patient's physician and appropriate record
11 retention, or pursuant to hospital pharmacy and therapeutics
12 committee policies and procedures; (6) drug regimen review; (7)
13 drug or drug-related research; (8) the provision of patient
14 counseling; (9) the practice of telepharmacy; (10) the
15 provision of those acts or services necessary to provide
16 pharmacist care; (11) medication therapy management; and (12)
17 the responsibility for compounding and labeling of drugs and
18 devices (except labeling by a manufacturer, repackager, or
19 distributor of non-prescription drugs and commercially
20 packaged legend drugs and devices), proper and safe storage of
21 drugs and devices, and maintenance of required records. A
22 pharmacist who performs any of the acts defined as the practice
23 of pharmacy in this State must be actively licensed as a
24 pharmacist under this Act.

25 (e) "Prescription" means and includes any written, oral,
26 facsimile, or electronically transmitted order for drugs or

1 medical devices, issued by a physician licensed to practice
2 medicine in all its branches, dentist, veterinarian, podiatric
3 physician, or optometrist, within the limits of their licenses,
4 by a physician assistant in accordance with subsection (f) of
5 Section 4, or by an advanced practice nurse in accordance with
6 subsection (g) of Section 4, containing the following: (1) name
7 of the patient; (2) date when prescription was issued; (3) name
8 and strength of drug or description of the medical device
9 prescribed; and (4) quantity; (5) directions for use; (6)
10 prescriber's name, address, and signature; and (7) DEA number
11 where required, for controlled substances. The prescription
12 may, but is not required to, list the illness, disease, or
13 condition for which the drug or device is being prescribed. DEA
14 numbers shall not be required on inpatient drug orders.

15 (f) "Person" means and includes a natural person,
16 copartnership, association, corporation, government entity, or
17 any other legal entity.

18 (g) "Department" means the Department of Financial and
19 Professional Regulation.

20 (h) "Board of Pharmacy" or "Board" means the State Board of
21 Pharmacy of the Department of Financial and Professional
22 Regulation.

23 (i) "Secretary" means the Secretary of Financial and
24 Professional Regulation.

25 (j) "Drug product selection" means the interchange for a
26 prescribed pharmaceutical product in accordance with Section

1 25 of this Act and Section 3.14 of the Illinois Food, Drug and
2 Cosmetic Act.

3 (k) "Inpatient drug order" means an order issued by an
4 authorized prescriber for a resident or patient of a facility
5 licensed under the Nursing Home Care Act, the ID/DD Community
6 Care Act, the MC/DD Act, the Specialized Mental Health
7 Rehabilitation Act of 2013, or the Hospital Licensing Act, or
8 "An Act in relation to the founding and operation of the
9 University of Illinois Hospital and the conduct of University
10 of Illinois health care programs", approved July 3, 1931, as
11 amended, or a facility which is operated by the Department of
12 Human Services (as successor to the Department of Mental Health
13 and Developmental Disabilities) or the Department of
14 Corrections.

15 (k-5) "Pharmacist" means an individual health care
16 professional and provider currently licensed by this State to
17 engage in the practice of pharmacy.

18 (l) "Pharmacist in charge" means the licensed pharmacist
19 whose name appears on a pharmacy license and who is responsible
20 for all aspects of the operation related to the practice of
21 pharmacy.

22 (m) "Dispense" or "dispensing" means the interpretation,
23 evaluation, and implementation of a prescription drug order,
24 including the preparation and delivery of a drug or device to a
25 patient or patient's agent in a suitable container
26 appropriately labeled for subsequent administration to or use

1 by a patient in accordance with applicable State and federal
2 laws and regulations. "Dispense" or "dispensing" does not mean
3 the physical delivery to a patient or a patient's
4 representative in a home or institution by a designee of a
5 pharmacist or by common carrier. "Dispense" or "dispensing"
6 also does not mean the physical delivery of a drug or medical
7 device to a patient or patient's representative by a
8 pharmacist's designee within a pharmacy or drugstore while the
9 pharmacist is on duty and the pharmacy is open.

10 (n) "Nonresident pharmacy" means a pharmacy that is located
11 in a state, commonwealth, or territory of the United States,
12 other than Illinois, that delivers, dispenses, or distributes,
13 through the United States Postal Service, commercially
14 acceptable parcel delivery service, or other common carrier, to
15 Illinois residents, any substance which requires a
16 prescription.

17 (o) "Compounding" means the preparation and mixing of
18 components, excluding flavorings, (1) as the result of a
19 prescriber's prescription drug order or initiative based on the
20 prescriber-patient-pharmacist relationship in the course of
21 professional practice or (2) for the purpose of, or incident
22 to, research, teaching, or chemical analysis and not for sale
23 or dispensing. "Compounding" includes the preparation of drugs
24 or devices in anticipation of receiving prescription drug
25 orders based on routine, regularly observed dispensing
26 patterns. Commercially available products may be compounded

1 for dispensing to individual patients only if all of the
2 following conditions are met: (i) the commercial product is not
3 reasonably available from normal distribution channels in a
4 timely manner to meet the patient's needs and (ii) the
5 prescribing practitioner has requested that the drug be
6 compounded.

7 (p) (Blank).

8 (q) (Blank).

9 (r) "Patient counseling" means the communication between a
10 pharmacist or a student pharmacist under the supervision of a
11 pharmacist and a patient or the patient's representative about
12 the patient's medication or device for the purpose of
13 optimizing proper use of prescription medications or devices.
14 "Patient counseling" may include without limitation (1)
15 obtaining a medication history; (2) acquiring a patient's
16 allergies and health conditions; (3) facilitation of the
17 patient's understanding of the intended use of the medication;
18 (4) proper directions for use; (5) significant potential
19 adverse events; (6) potential food-drug interactions; and (7)
20 the need to be compliant with the medication therapy. A
21 pharmacy technician may only participate in the following
22 aspects of patient counseling under the supervision of a
23 pharmacist: (1) obtaining medication history; (2) providing
24 the offer for counseling by a pharmacist or student pharmacist;
25 and (3) acquiring a patient's allergies and health conditions.

26 (s) "Patient profiles" or "patient drug therapy record"

1 means the obtaining, recording, and maintenance of patient
2 prescription information, including prescriptions for
3 controlled substances, and personal information.

4 (t) (Blank).

5 (u) "Medical device" means an instrument, apparatus,
6 implement, machine, contrivance, implant, in vitro reagent, or
7 other similar or related article, including any component part
8 or accessory, required under federal law to bear the label
9 "Caution: Federal law requires dispensing by or on the order of
10 a physician". A seller of goods and services who, only for the
11 purpose of retail sales, compounds, sells, rents, or leases
12 medical devices shall not, by reasons thereof, be required to
13 be a licensed pharmacy.

14 (v) "Unique identifier" means an electronic signature,
15 handwritten signature or initials, thumb print, or other
16 acceptable biometric or electronic identification process as
17 approved by the Department.

18 (w) "Current usual and customary retail price" means the
19 price that a pharmacy charges to a non-third-party payor.

20 (x) "Automated pharmacy system" means a mechanical system
21 located within the confines of the pharmacy or remote location
22 that performs operations or activities, other than compounding
23 or administration, relative to storage, packaging, dispensing,
24 or distribution of medication, and which collects, controls,
25 and maintains all transaction information.

26 (y) "Drug regimen review" means and includes the evaluation

1 of prescription drug orders and patient records for (1) known
2 allergies; (2) drug or potential therapy contraindications;
3 (3) reasonable dose, duration of use, and route of
4 administration, taking into consideration factors such as age,
5 gender, and contraindications; (4) reasonable directions for
6 use; (5) potential or actual adverse drug reactions; (6)
7 drug-drug interactions; (7) drug-food interactions; (8)
8 drug-disease contraindications; (9) therapeutic duplication;
9 (10) patient laboratory values when authorized and available;
10 (11) proper utilization (including over or under utilization)
11 and optimum therapeutic outcomes; and (12) abuse and misuse.

12 (z) "Electronic transmission prescription" means any
13 prescription order for which a facsimile or electronic image of
14 the order is electronically transmitted from a licensed
15 prescriber to a pharmacy. "Electronic transmission
16 prescription" includes both data and image prescriptions.

17 (aa) "Medication therapy management services" means a
18 distinct service or group of services offered by licensed
19 pharmacists, physicians licensed to practice medicine in all
20 its branches, advanced practice nurses authorized in a written
21 agreement with a physician licensed to practice medicine in all
22 its branches, or physician assistants authorized in guidelines
23 by a supervising physician that optimize therapeutic outcomes
24 for individual patients through improved medication use. In a
25 retail or other non-hospital pharmacy, medication therapy
26 management services shall consist of the evaluation of

1 prescription drug orders and patient medication records to
2 resolve conflicts with the following:

3 (1) known allergies;

4 (2) drug or potential therapy contraindications;

5 (3) reasonable dose, duration of use, and route of
6 administration, taking into consideration factors such as
7 age, gender, and contraindications;

8 (4) reasonable directions for use;

9 (5) potential or actual adverse drug reactions;

10 (6) drug-drug interactions;

11 (7) drug-food interactions;

12 (8) drug-disease contraindications;

13 (9) identification of therapeutic duplication;

14 (10) patient laboratory values when authorized and
15 available;

16 (11) proper utilization (including over or under
17 utilization) and optimum therapeutic outcomes; and

18 (12) drug abuse and misuse.

19 "Medication therapy management services" includes the
20 following:

21 (1) documenting the services delivered and
22 communicating the information provided to patients'
23 prescribers within an appropriate time frame, not to exceed
24 48 hours;

25 (2) providing patient counseling designed to enhance a
26 patient's understanding and the appropriate use of his or

1 her medications; and

2 (3) providing information, support services, and
3 resources designed to enhance a patient's adherence with
4 his or her prescribed therapeutic regimens.

5 "Medication therapy management services" may also include
6 patient care functions authorized by a physician licensed to
7 practice medicine in all its branches for his or her identified
8 patient or groups of patients under specified conditions or
9 limitations in a standing order from the physician.

10 "Medication therapy management services" in a licensed
11 hospital may also include the following:

12 (1) reviewing assessments of the patient's health
13 status; and

14 (2) following protocols of a hospital pharmacy and
15 therapeutics committee with respect to the fulfillment of
16 medication orders.

17 (bb) "Pharmacist care" means the provision by a pharmacist
18 of medication therapy management services, with or without the
19 dispensing of drugs or devices, intended to achieve outcomes
20 that improve patient health, quality of life, and comfort and
21 enhance patient safety.

22 (cc) "Protected health information" means individually
23 identifiable health information that, except as otherwise
24 provided, is:

25 (1) transmitted by electronic media;

26 (2) maintained in any medium set forth in the

1 definition of "electronic media" in the federal Health
2 Insurance Portability and Accountability Act; or

3 (3) transmitted or maintained in any other form or
4 medium.

5 "Protected health information" does not include
6 individually identifiable health information found in:

7 (1) education records covered by the federal Family
8 Educational Right and Privacy Act; or

9 (2) employment records held by a licensee in its role
10 as an employer.

11 (dd) "Standing order" means a specific order for a patient
12 or group of patients issued by a physician licensed to practice
13 medicine in all its branches in Illinois.

14 (ee) "Address of record" means the address recorded by the
15 Department in the applicant's or licensee's application file or
16 license file, as maintained by the Department's licensure
17 maintenance unit.

18 (ff) "Home pharmacy" means the location of a pharmacy's
19 primary operations.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 97-1043, eff. 8-21-12; 98-104, eff. 7-22-13;
22 98-214, eff. 8-9-13; 98-756, eff. 7-16-14.)

23 Section 165. The Nurse Agency Licensing Act is amended by
24 changing Section 3 as follows:

1 (225 ILCS 510/3) (from Ch. 111, par. 953)

2 Sec. 3. Definitions. As used in this Act:

3 (a) "Certified nurse aide" means an individual certified as
4 defined in Section 3-206 of the Nursing Home Care Act, ~~or~~
5 Section 3-206 of the ID/DD Community Care Act, or Section 3-206
6 of the MC/DD Act, as now or hereafter amended.

7 (b) "Department" means the Department of Labor.

8 (c) "Director" means the Director of Labor.

9 (d) "Health care facility" is defined as in Section 3 of
10 the Illinois Health Facilities Planning Act, as now or
11 hereafter amended.

12 (e) "Licensee" means any nursing agency which is properly
13 licensed under this Act.

14 (f) "Nurse" means a registered nurse or a licensed
15 practical nurse as defined in the Nurse Practice Act.

16 (g) "Nurse agency" means any individual, firm,
17 corporation, partnership or other legal entity that employs,
18 assigns or refers nurses or certified nurse aides to a health
19 care facility for a fee. The term "nurse agency" includes
20 nurses registries. The term "nurse agency" does not include
21 services provided by home health agencies licensed and operated
22 under the Home Health, Home Services, and Home Nursing Agency
23 Licensing Act or a licensed or certified individual who
24 provides his or her own services as a regular employee of a
25 health care facility, nor does it apply to a health care
26 facility's organizing nonsalaried employees to provide

1 services only in that facility.

2 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
3 eff. 7-13-12; 98-104, eff. 7-22-13.)

4 Section 170. The Illinois Public Aid Code is amended by
5 changing Sections 5-5, 5-5.7, 5-5.12, 5-5e, 5-6, 5B-1, 5E-5,
6 8A-11, 11-4.1, and 12-4.25 as follows:

7 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

8 Sec. 5-5. Medical services. The Illinois Department, by
9 rule, shall determine the quantity and quality of and the rate
10 of reimbursement for the medical assistance for which payment
11 will be authorized, and the medical services to be provided,
12 which may include all or part of the following: (1) inpatient
13 hospital services; (2) outpatient hospital services; (3) other
14 laboratory and X-ray services; (4) skilled nursing home
15 services; (5) physicians' services whether furnished in the
16 office, the patient's home, a hospital, a skilled nursing home,
17 or elsewhere; (6) medical care, or any other type of remedial
18 care furnished by licensed practitioners; (7) home health care
19 services; (8) private duty nursing service; (9) clinic
20 services; (10) dental services, including prevention and
21 treatment of periodontal disease and dental caries disease for
22 pregnant women, provided by an individual licensed to practice
23 dentistry or dental surgery; for purposes of this item (10),
24 "dental services" means diagnostic, preventive, or corrective

1 procedures provided by or under the supervision of a dentist in
2 the practice of his or her profession; (11) physical therapy
3 and related services; (12) prescribed drugs, dentures, and
4 prosthetic devices; and eyeglasses prescribed by a physician
5 skilled in the diseases of the eye, or by an optometrist,
6 whichever the person may select; (13) other diagnostic,
7 screening, preventive, and rehabilitative services, including
8 to ensure that the individual's need for intervention or
9 treatment of mental disorders or substance use disorders or
10 co-occurring mental health and substance use disorders is
11 determined using a uniform screening, assessment, and
12 evaluation process inclusive of criteria, for children and
13 adults; for purposes of this item (13), a uniform screening,
14 assessment, and evaluation process refers to a process that
15 includes an appropriate evaluation and, as warranted, a
16 referral; "uniform" does not mean the use of a singular
17 instrument, tool, or process that all must utilize; (14)
18 transportation and such other expenses as may be necessary;
19 (15) medical treatment of sexual assault survivors, as defined
20 in Section 1a of the Sexual Assault Survivors Emergency
21 Treatment Act, for injuries sustained as a result of the sexual
22 assault, including examinations and laboratory tests to
23 discover evidence which may be used in criminal proceedings
24 arising from the sexual assault; (16) the diagnosis and
25 treatment of sickle cell anemia; and (17) any other medical
26 care, and any other type of remedial care recognized under the

1 laws of this State, but not including abortions, or induced
2 miscarriages or premature births, unless, in the opinion of a
3 physician, such procedures are necessary for the preservation
4 of the life of the woman seeking such treatment, or except an
5 induced premature birth intended to produce a live viable child
6 and such procedure is necessary for the health of the mother or
7 her unborn child. The Illinois Department, by rule, shall
8 prohibit any physician from providing medical assistance to
9 anyone eligible therefor under this Code where such physician
10 has been found guilty of performing an abortion procedure in a
11 wilful and wanton manner upon a woman who was not pregnant at
12 the time such abortion procedure was performed. The term "any
13 other type of remedial care" shall include nursing care and
14 nursing home service for persons who rely on treatment by
15 spiritual means alone through prayer for healing.

16 Notwithstanding any other provision of this Section, a
17 comprehensive tobacco use cessation program that includes
18 purchasing prescription drugs or prescription medical devices
19 approved by the Food and Drug Administration shall be covered
20 under the medical assistance program under this Article for
21 persons who are otherwise eligible for assistance under this
22 Article.

23 Notwithstanding any other provision of this Code, the
24 Illinois Department may not require, as a condition of payment
25 for any laboratory test authorized under this Article, that a
26 physician's handwritten signature appear on the laboratory

1 test order form. The Illinois Department may, however, impose
2 other appropriate requirements regarding laboratory test order
3 documentation.

4 Upon receipt of federal approval of an amendment to the
5 Illinois Title XIX State Plan for this purpose, the Department
6 shall authorize the Chicago Public Schools (CPS) to procure a
7 vendor or vendors to manufacture eyeglasses for individuals
8 enrolled in a school within the CPS system. CPS shall ensure
9 that its vendor or vendors are enrolled as providers in the
10 medical assistance program and in any capitated Medicaid
11 managed care entity (MCE) serving individuals enrolled in a
12 school within the CPS system. Under any contract procured under
13 this provision, the vendor or vendors must serve only
14 individuals enrolled in a school within the CPS system. Claims
15 for services provided by CPS's vendor or vendors to recipients
16 of benefits in the medical assistance program under this Code,
17 the Children's Health Insurance Program, or the Covering ALL
18 KIDS Health Insurance Program shall be submitted to the
19 Department or the MCE in which the individual is enrolled for
20 payment and shall be reimbursed at the Department's or the
21 MCE's established rates or rate methodologies for eyeglasses.

22 On and after July 1, 2012, the Department of Healthcare and
23 Family Services may provide the following services to persons
24 eligible for assistance under this Article who are
25 participating in education, training or employment programs
26 operated by the Department of Human Services as successor to

1 the Department of Public Aid:

2 (1) dental services provided by or under the
3 supervision of a dentist; and

4 (2) eyeglasses prescribed by a physician skilled in the
5 diseases of the eye, or by an optometrist, whichever the
6 person may select.

7 Notwithstanding any other provision of this Code and
8 subject to federal approval, the Department may adopt rules to
9 allow a dentist who is volunteering his or her service at no
10 cost to render dental services through an enrolled
11 not-for-profit health clinic without the dentist personally
12 enrolling as a participating provider in the medical assistance
13 program. A not-for-profit health clinic shall include a public
14 health clinic or Federally Qualified Health Center or other
15 enrolled provider, as determined by the Department, through
16 which dental services covered under this Section are performed.
17 The Department shall establish a process for payment of claims
18 for reimbursement for covered dental services rendered under
19 this provision.

20 The Illinois Department, by rule, may distinguish and
21 classify the medical services to be provided only in accordance
22 with the classes of persons designated in Section 5-2.

23 The Department of Healthcare and Family Services must
24 provide coverage and reimbursement for amino acid-based
25 elemental formulas, regardless of delivery method, for the
26 diagnosis and treatment of (i) eosinophilic disorders and (ii)

1 short bowel syndrome when the prescribing physician has issued
2 a written order stating that the amino acid-based elemental
3 formula is medically necessary.

4 The Illinois Department shall authorize the provision of,
5 and shall authorize payment for, screening by low-dose
6 mammography for the presence of occult breast cancer for women
7 35 years of age or older who are eligible for medical
8 assistance under this Article, as follows:

9 (A) A baseline mammogram for women 35 to 39 years of
10 age.

11 (B) An annual mammogram for women 40 years of age or
12 older.

13 (C) A mammogram at the age and intervals considered
14 medically necessary by the woman's health care provider for
15 women under 40 years of age and having a family history of
16 breast cancer, prior personal history of breast cancer,
17 positive genetic testing, or other risk factors.

18 (D) A comprehensive ultrasound screening of an entire
19 breast or breasts if a mammogram demonstrates
20 heterogeneous or dense breast tissue, when medically
21 necessary as determined by a physician licensed to practice
22 medicine in all of its branches.

23 All screenings shall include a physical breast exam,
24 instruction on self-examination and information regarding the
25 frequency of self-examination and its value as a preventative
26 tool. For purposes of this Section, "low-dose mammography"

1 means the x-ray examination of the breast using equipment
2 dedicated specifically for mammography, including the x-ray
3 tube, filter, compression device, and image receptor, with an
4 average radiation exposure delivery of less than one rad per
5 breast for 2 views of an average size breast. The term also
6 includes digital mammography.

7 On and after January 1, 2012, providers participating in a
8 quality improvement program approved by the Department shall be
9 reimbursed for screening and diagnostic mammography at the same
10 rate as the Medicare program's rates, including the increased
11 reimbursement for digital mammography.

12 The Department shall convene an expert panel including
13 representatives of hospitals, free-standing mammography
14 facilities, and doctors, including radiologists, to establish
15 quality standards.

16 Subject to federal approval, the Department shall
17 establish a rate methodology for mammography at federally
18 qualified health centers and other encounter-rate clinics.
19 These clinics or centers may also collaborate with other
20 hospital-based mammography facilities.

21 The Department shall establish a methodology to remind
22 women who are age-appropriate for screening mammography, but
23 who have not received a mammogram within the previous 18
24 months, of the importance and benefit of screening mammography.

25 The Department shall establish a performance goal for
26 primary care providers with respect to their female patients

1 over age 40 receiving an annual mammogram. This performance
2 goal shall be used to provide additional reimbursement in the
3 form of a quality performance bonus to primary care providers
4 who meet that goal.

5 The Department shall devise a means of case-managing or
6 patient navigation for beneficiaries diagnosed with breast
7 cancer. This program shall initially operate as a pilot program
8 in areas of the State with the highest incidence of mortality
9 related to breast cancer. At least one pilot program site shall
10 be in the metropolitan Chicago area and at least one site shall
11 be outside the metropolitan Chicago area. An evaluation of the
12 pilot program shall be carried out measuring health outcomes
13 and cost of care for those served by the pilot program compared
14 to similarly situated patients who are not served by the pilot
15 program.

16 Any medical or health care provider shall immediately
17 recommend, to any pregnant woman who is being provided prenatal
18 services and is suspected of drug abuse or is addicted as
19 defined in the Alcoholism and Other Drug Abuse and Dependency
20 Act, referral to a local substance abuse treatment provider
21 licensed by the Department of Human Services or to a licensed
22 hospital which provides substance abuse treatment services.
23 The Department of Healthcare and Family Services shall assure
24 coverage for the cost of treatment of the drug abuse or
25 addiction for pregnant recipients in accordance with the
26 Illinois Medicaid Program in conjunction with the Department of

1 Human Services.

2 All medical providers providing medical assistance to
3 pregnant women under this Code shall receive information from
4 the Department on the availability of services under the Drug
5 Free Families with a Future or any comparable program providing
6 case management services for addicted women, including
7 information on appropriate referrals for other social services
8 that may be needed by addicted women in addition to treatment
9 for addiction.

10 The Illinois Department, in cooperation with the
11 Departments of Human Services (as successor to the Department
12 of Alcoholism and Substance Abuse) and Public Health, through a
13 public awareness campaign, may provide information concerning
14 treatment for alcoholism and drug abuse and addiction, prenatal
15 health care, and other pertinent programs directed at reducing
16 the number of drug-affected infants born to recipients of
17 medical assistance.

18 Neither the Department of Healthcare and Family Services
19 nor the Department of Human Services shall sanction the
20 recipient solely on the basis of her substance abuse.

21 The Illinois Department shall establish such regulations
22 governing the dispensing of health services under this Article
23 as it shall deem appropriate. The Department should seek the
24 advice of formal professional advisory committees appointed by
25 the Director of the Illinois Department for the purpose of
26 providing regular advice on policy and administrative matters,

1 information dissemination and educational activities for
2 medical and health care providers, and consistency in
3 procedures to the Illinois Department.

4 The Illinois Department may develop and contract with
5 Partnerships of medical providers to arrange medical services
6 for persons eligible under Section 5-2 of this Code.
7 Implementation of this Section may be by demonstration projects
8 in certain geographic areas. The Partnership shall be
9 represented by a sponsor organization. The Department, by rule,
10 shall develop qualifications for sponsors of Partnerships.
11 Nothing in this Section shall be construed to require that the
12 sponsor organization be a medical organization.

13 The sponsor must negotiate formal written contracts with
14 medical providers for physician services, inpatient and
15 outpatient hospital care, home health services, treatment for
16 alcoholism and substance abuse, and other services determined
17 necessary by the Illinois Department by rule for delivery by
18 Partnerships. Physician services must include prenatal and
19 obstetrical care. The Illinois Department shall reimburse
20 medical services delivered by Partnership providers to clients
21 in target areas according to provisions of this Article and the
22 Illinois Health Finance Reform Act, except that:

23 (1) Physicians participating in a Partnership and
24 providing certain services, which shall be determined by
25 the Illinois Department, to persons in areas covered by the
26 Partnership may receive an additional surcharge for such

1 services.

2 (2) The Department may elect to consider and negotiate
3 financial incentives to encourage the development of
4 Partnerships and the efficient delivery of medical care.

5 (3) Persons receiving medical services through
6 Partnerships may receive medical and case management
7 services above the level usually offered through the
8 medical assistance program.

9 Medical providers shall be required to meet certain
10 qualifications to participate in Partnerships to ensure the
11 delivery of high quality medical services. These
12 qualifications shall be determined by rule of the Illinois
13 Department and may be higher than qualifications for
14 participation in the medical assistance program. Partnership
15 sponsors may prescribe reasonable additional qualifications
16 for participation by medical providers, only with the prior
17 written approval of the Illinois Department.

18 Nothing in this Section shall limit the free choice of
19 practitioners, hospitals, and other providers of medical
20 services by clients. In order to ensure patient freedom of
21 choice, the Illinois Department shall immediately promulgate
22 all rules and take all other necessary actions so that provided
23 services may be accessed from therapeutically certified
24 optometrists to the full extent of the Illinois Optometric
25 Practice Act of 1987 without discriminating between service
26 providers.

1 The Department shall apply for a waiver from the United
2 States Health Care Financing Administration to allow for the
3 implementation of Partnerships under this Section.

4 The Illinois Department shall require health care
5 providers to maintain records that document the medical care
6 and services provided to recipients of Medical Assistance under
7 this Article. Such records must be retained for a period of not
8 less than 6 years from the date of service or as provided by
9 applicable State law, whichever period is longer, except that
10 if an audit is initiated within the required retention period
11 then the records must be retained until the audit is completed
12 and every exception is resolved. The Illinois Department shall
13 require health care providers to make available, when
14 authorized by the patient, in writing, the medical records in a
15 timely fashion to other health care providers who are treating
16 or serving persons eligible for Medical Assistance under this
17 Article. All dispensers of medical services shall be required
18 to maintain and retain business and professional records
19 sufficient to fully and accurately document the nature, scope,
20 details and receipt of the health care provided to persons
21 eligible for medical assistance under this Code, in accordance
22 with regulations promulgated by the Illinois Department. The
23 rules and regulations shall require that proof of the receipt
24 of prescription drugs, dentures, prosthetic devices and
25 eyeglasses by eligible persons under this Section accompany
26 each claim for reimbursement submitted by the dispenser of such

1 medical services. No such claims for reimbursement shall be
2 approved for payment by the Illinois Department without such
3 proof of receipt, unless the Illinois Department shall have put
4 into effect and shall be operating a system of post-payment
5 audit and review which shall, on a sampling basis, be deemed
6 adequate by the Illinois Department to assure that such drugs,
7 dentures, prosthetic devices and eyeglasses for which payment
8 is being made are actually being received by eligible
9 recipients. Within 90 days after the effective date of this
10 amendatory Act of 1984, the Illinois Department shall establish
11 a current list of acquisition costs for all prosthetic devices
12 and any other items recognized as medical equipment and
13 supplies reimbursable under this Article and shall update such
14 list on a quarterly basis, except that the acquisition costs of
15 all prescription drugs shall be updated no less frequently than
16 every 30 days as required by Section 5-5.12.

17 The rules and regulations of the Illinois Department shall
18 require that a written statement including the required opinion
19 of a physician shall accompany any claim for reimbursement for
20 abortions, or induced miscarriages or premature births. This
21 statement shall indicate what procedures were used in providing
22 such medical services.

23 Notwithstanding any other law to the contrary, the Illinois
24 Department shall, within 365 days after July 22, 2013~~7~~ (the
25 effective date of Public Act 98-104), establish procedures to
26 permit skilled care facilities licensed under the Nursing Home

1 Care Act to submit monthly billing claims for reimbursement
2 purposes. Following development of these procedures, the
3 Department shall have an additional 365 days to test the
4 viability of the new system and to ensure that any necessary
5 operational or structural changes to its information
6 technology platforms are implemented.

7 Notwithstanding any other law to the contrary, the Illinois
8 Department shall, within 365 days after August 15, 2014 (the
9 effective date of Public Act 98-963) ~~this amendatory Act of the~~
10 ~~98th General Assembly~~, establish procedures to permit ID/DD
11 facilities licensed under the ID/DD Community Care Act to
12 submit monthly billing claims for reimbursement purposes.
13 Following development of these procedures, the Department
14 shall have an additional 365 days to test the viability of the
15 new system and to ensure that any necessary operational or
16 structural changes to its information technology platforms are
17 implemented.

18 Notwithstanding any other law to the contrary, the Illinois
19 Department shall, within 365 days after the effective date of
20 this amendatory Act of the 99th General Assembly, establish
21 procedures to permit MC/DD facilities licensed under the MC/DD
22 Act to submit monthly billing claims for reimbursement
23 purposes. Following development of these procedures, the
24 Department shall have an additional 365 days to test the
25 viability of the new system and to ensure that any necessary
26 operational or structural changes to its information

1 technology platforms are implemented.

2 The Illinois Department shall require all dispensers of
3 medical services, other than an individual practitioner or
4 group of practitioners, desiring to participate in the Medical
5 Assistance program established under this Article to disclose
6 all financial, beneficial, ownership, equity, surety or other
7 interests in any and all firms, corporations, partnerships,
8 associations, business enterprises, joint ventures, agencies,
9 institutions or other legal entities providing any form of
10 health care services in this State under this Article.

11 The Illinois Department may require that all dispensers of
12 medical services desiring to participate in the medical
13 assistance program established under this Article disclose,
14 under such terms and conditions as the Illinois Department may
15 by rule establish, all inquiries from clients and attorneys
16 regarding medical bills paid by the Illinois Department, which
17 inquiries could indicate potential existence of claims or liens
18 for the Illinois Department.

19 Enrollment of a vendor shall be subject to a provisional
20 period and shall be conditional for one year. During the period
21 of conditional enrollment, the Department may terminate the
22 vendor's eligibility to participate in, or may disenroll the
23 vendor from, the medical assistance program without cause.
24 Unless otherwise specified, such termination of eligibility or
25 disenrollment is not subject to the Department's hearing
26 process. However, a disenrolled vendor may reapply without

1 penalty.

2 The Department has the discretion to limit the conditional
3 enrollment period for vendors based upon category of risk of
4 the vendor.

5 Prior to enrollment and during the conditional enrollment
6 period in the medical assistance program, all vendors shall be
7 subject to enhanced oversight, screening, and review based on
8 the risk of fraud, waste, and abuse that is posed by the
9 category of risk of the vendor. The Illinois Department shall
10 establish the procedures for oversight, screening, and review,
11 which may include, but need not be limited to: criminal and
12 financial background checks; fingerprinting; license,
13 certification, and authorization verifications; unscheduled or
14 unannounced site visits; database checks; prepayment audit
15 reviews; audits; payment caps; payment suspensions; and other
16 screening as required by federal or State law.

17 The Department shall define or specify the following: (i)
18 by provider notice, the "category of risk of the vendor" for
19 each type of vendor, which shall take into account the level of
20 screening applicable to a particular category of vendor under
21 federal law and regulations; (ii) by rule or provider notice,
22 the maximum length of the conditional enrollment period for
23 each category of risk of the vendor; and (iii) by rule, the
24 hearing rights, if any, afforded to a vendor in each category
25 of risk of the vendor that is terminated or disenrolled during
26 the conditional enrollment period.

1 To be eligible for payment consideration, a vendor's
2 payment claim or bill, either as an initial claim or as a
3 resubmitted claim following prior rejection, must be received
4 by the Illinois Department, or its fiscal intermediary, no
5 later than 180 days after the latest date on the claim on which
6 medical goods or services were provided, with the following
7 exceptions:

8 (1) In the case of a provider whose enrollment is in
9 process by the Illinois Department, the 180-day period
10 shall not begin until the date on the written notice from
11 the Illinois Department that the provider enrollment is
12 complete.

13 (2) In the case of errors attributable to the Illinois
14 Department or any of its claims processing intermediaries
15 which result in an inability to receive, process, or
16 adjudicate a claim, the 180-day period shall not begin
17 until the provider has been notified of the error.

18 (3) In the case of a provider for whom the Illinois
19 Department initiates the monthly billing process.

20 (4) In the case of a provider operated by a unit of
21 local government with a population exceeding 3,000,000
22 when local government funds finance federal participation
23 for claims payments.

24 For claims for services rendered during a period for which
25 a recipient received retroactive eligibility, claims must be
26 filed within 180 days after the Department determines the

1 applicant is eligible. For claims for which the Illinois
2 Department is not the primary payer, claims must be submitted
3 to the Illinois Department within 180 days after the final
4 adjudication by the primary payer.

5 In the case of long term care facilities, within 5 days of
6 receipt by the facility of required prescreening information,
7 data for new admissions shall be entered into the Medical
8 Electronic Data Interchange (MEDI) or the Recipient
9 Eligibility Verification (REV) System or successor system, and
10 within 15 days of receipt by the facility of required
11 prescreening information, admission documents shall be
12 submitted through MEDI or REV or shall be submitted directly to
13 the Department of Human Services using required admission
14 forms. Effective September 1, 2014, admission documents,
15 including all prescreening information, must be submitted
16 through MEDI or REV. Confirmation numbers assigned to an
17 accepted transaction shall be retained by a facility to verify
18 timely submittal. Once an admission transaction has been
19 completed, all resubmitted claims following prior rejection
20 are subject to receipt no later than 180 days after the
21 admission transaction has been completed.

22 Claims that are not submitted and received in compliance
23 with the foregoing requirements shall not be eligible for
24 payment under the medical assistance program, and the State
25 shall have no liability for payment of those claims.

26 To the extent consistent with applicable information and

1 privacy, security, and disclosure laws, State and federal
2 agencies and departments shall provide the Illinois Department
3 access to confidential and other information and data necessary
4 to perform eligibility and payment verifications and other
5 Illinois Department functions. This includes, but is not
6 limited to: information pertaining to licensure;
7 certification; earnings; immigration status; citizenship; wage
8 reporting; unearned and earned income; pension income;
9 employment; supplemental security income; social security
10 numbers; National Provider Identifier (NPI) numbers; the
11 National Practitioner Data Bank (NPDB); program and agency
12 exclusions; taxpayer identification numbers; tax delinquency;
13 corporate information; and death records.

14 The Illinois Department shall enter into agreements with
15 State agencies and departments, and is authorized to enter into
16 agreements with federal agencies and departments, under which
17 such agencies and departments shall share data necessary for
18 medical assistance program integrity functions and oversight.
19 The Illinois Department shall develop, in cooperation with
20 other State departments and agencies, and in compliance with
21 applicable federal laws and regulations, appropriate and
22 effective methods to share such data. At a minimum, and to the
23 extent necessary to provide data sharing, the Illinois
24 Department shall enter into agreements with State agencies and
25 departments, and is authorized to enter into agreements with
26 federal agencies and departments, including but not limited to:

1 the Secretary of State; the Department of Revenue; the
2 Department of Public Health; the Department of Human Services;
3 and the Department of Financial and Professional Regulation.

4 Beginning in fiscal year 2013, the Illinois Department
5 shall set forth a request for information to identify the
6 benefits of a pre-payment, post-adjudication, and post-edit
7 claims system with the goals of streamlining claims processing
8 and provider reimbursement, reducing the number of pending or
9 rejected claims, and helping to ensure a more transparent
10 adjudication process through the utilization of: (i) provider
11 data verification and provider screening technology; and (ii)
12 clinical code editing; and (iii) pre-pay, pre- or
13 post-adjudicated predictive modeling with an integrated case
14 management system with link analysis. Such a request for
15 information shall not be considered as a request for proposal
16 or as an obligation on the part of the Illinois Department to
17 take any action or acquire any products or services.

18 The Illinois Department shall establish policies,
19 procedures, standards and criteria by rule for the acquisition,
20 repair and replacement of orthotic and prosthetic devices and
21 durable medical equipment. Such rules shall provide, but not be
22 limited to, the following services: (1) immediate repair or
23 replacement of such devices by recipients; and (2) rental,
24 lease, purchase or lease-purchase of durable medical equipment
25 in a cost-effective manner, taking into consideration the
26 recipient's medical prognosis, the extent of the recipient's

1 needs, and the requirements and costs for maintaining such
2 equipment. Subject to prior approval, such rules shall enable a
3 recipient to temporarily acquire and use alternative or
4 substitute devices or equipment pending repairs or
5 replacements of any device or equipment previously authorized
6 for such recipient by the Department.

7 The Department shall execute, relative to the nursing home
8 prescreening project, written inter-agency agreements with the
9 Department of Human Services and the Department on Aging, to
10 effect the following: (i) intake procedures and common
11 eligibility criteria for those persons who are receiving
12 non-institutional services; and (ii) the establishment and
13 development of non-institutional services in areas of the State
14 where they are not currently available or are undeveloped; and
15 (iii) notwithstanding any other provision of law, subject to
16 federal approval, on and after July 1, 2012, an increase in the
17 determination of need (DON) scores from 29 to 37 for applicants
18 for institutional and home and community-based long term care;
19 if and only if federal approval is not granted, the Department
20 may, in conjunction with other affected agencies, implement
21 utilization controls or changes in benefit packages to
22 effectuate a similar savings amount for this population; and
23 (iv) no later than July 1, 2013, minimum level of care
24 eligibility criteria for institutional and home and
25 community-based long term care; and (v) no later than October
26 1, 2013, establish procedures to permit long term care

1 providers access to eligibility scores for individuals with an
2 admission date who are seeking or receiving services from the
3 long term care provider. In order to select the minimum level
4 of care eligibility criteria, the Governor shall establish a
5 workgroup that includes affected agency representatives and
6 stakeholders representing the institutional and home and
7 community-based long term care interests. This Section shall
8 not restrict the Department from implementing lower level of
9 care eligibility criteria for community-based services in
10 circumstances where federal approval has been granted.

11 The Illinois Department shall develop and operate, in
12 cooperation with other State Departments and agencies and in
13 compliance with applicable federal laws and regulations,
14 appropriate and effective systems of health care evaluation and
15 programs for monitoring of utilization of health care services
16 and facilities, as it affects persons eligible for medical
17 assistance under this Code.

18 The Illinois Department shall report annually to the
19 General Assembly, no later than the second Friday in April of
20 1979 and each year thereafter, in regard to:

21 (a) actual statistics and trends in utilization of
22 medical services by public aid recipients;

23 (b) actual statistics and trends in the provision of
24 the various medical services by medical vendors;

25 (c) current rate structures and proposed changes in
26 those rate structures for the various medical vendors; and

1 (d) efforts at utilization review and control by the
2 Illinois Department.

3 The period covered by each report shall be the 3 years
4 ending on the June 30 prior to the report. The report shall
5 include suggested legislation for consideration by the General
6 Assembly. The filing of one copy of the report with the
7 Speaker, one copy with the Minority Leader and one copy with
8 the Clerk of the House of Representatives, one copy with the
9 President, one copy with the Minority Leader and one copy with
10 the Secretary of the Senate, one copy with the Legislative
11 Research Unit, and such additional copies with the State
12 Government Report Distribution Center for the General Assembly
13 as is required under paragraph (t) of Section 7 of the State
14 Library Act shall be deemed sufficient to comply with this
15 Section.

16 Rulemaking authority to implement Public Act 95-1045, if
17 any, is conditioned on the rules being adopted in accordance
18 with all provisions of the Illinois Administrative Procedure
19 Act and all rules and procedures of the Joint Committee on
20 Administrative Rules; any purported rule not so adopted, for
21 whatever reason, is unauthorized.

22 On and after July 1, 2012, the Department shall reduce any
23 rate of reimbursement for services or other payments or alter
24 any methodologies authorized by this Code to reduce any rate of
25 reimbursement for services or other payments in accordance with
26 Section 5-5e.

1 Because kidney transplantation can be an appropriate, cost
2 effective alternative to renal dialysis when medically
3 necessary and notwithstanding the provisions of Section 1-11 of
4 this Code, beginning October 1, 2014, the Department shall
5 cover kidney transplantation for noncitizens with end-stage
6 renal disease who are not eligible for comprehensive medical
7 benefits, who meet the residency requirements of Section 5-3 of
8 this Code, and who would otherwise meet the financial
9 requirements of the appropriate class of eligible persons under
10 Section 5-2 of this Code. To qualify for coverage of kidney
11 transplantation, such person must be receiving emergency renal
12 dialysis services covered by the Department. Providers under
13 this Section shall be prior approved and certified by the
14 Department to perform kidney transplantation and the services
15 under this Section shall be limited to services associated with
16 kidney transplantation.

17 (Source: P.A. 97-48, eff. 6-28-11; 97-638, eff. 1-1-12; 97-689,
18 eff. 6-14-12; 97-1061, eff. 8-24-12; 98-104, Article 9, Section
19 9-5, eff. 7-22-13; 98-104, Article 12, Section 12-20, eff.
20 7-22-13; 98-303, eff. 8-9-13; 98-463, eff. 8-16-13; 98-651,
21 eff. 6-16-14; 98-756, eff. 7-16-14; 98-963, eff. 8-15-14;
22 revised 10-2-14.)

23 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

24 Sec. 5-5.7. Cost Reports - Audits. The Department of
25 Healthcare and Family Services shall work with the Department

1 of Public Health to use cost report information currently being
2 collected under provisions of the Nursing Home Care Act, the
3 Specialized Mental Health Rehabilitation Act of 2013, ~~and~~ the
4 ID/DD Community Care Act, and the MC/DD Act. The Department of
5 Healthcare and Family Services may, in conjunction with the
6 Department of Public Health, develop in accordance with
7 generally accepted accounting principles a uniform chart of
8 accounts which each facility providing services under the
9 medical assistance program shall adopt, after a reasonable
10 period.

11 Facilities licensed under the Nursing Home Care Act, the
12 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
13 ID/DD Community Care Act, or the MC/DD Act and providers of
14 adult developmental training services certified by the
15 Department of Human Services pursuant to Section 15.2 of the
16 Mental Health and Developmental Disabilities Administrative
17 Act which provide services to clients eligible for medical
18 assistance under this Article are responsible for submitting
19 the required annual cost report to the Department of Healthcare
20 and Family Services.

21 The Department of Healthcare and Family Services shall
22 audit the financial and statistical records of each provider
23 participating in the medical assistance program as a nursing
24 facility, a specialized mental health rehabilitation facility,
25 or an ICF/DD over a 3 year period, beginning with the close of
26 the first cost reporting year. Following the end of this 3-year

1 term, audits of the financial and statistical records will be
2 performed each year in at least 20% of the facilities
3 participating in the medical assistance program with at least
4 10% being selected on a random sample basis, and the remainder
5 selected on the basis of exceptional profiles. All audits shall
6 be conducted in accordance with generally accepted auditing
7 standards.

8 The Department of Healthcare and Family Services shall
9 establish prospective payment rates for categories or levels of
10 services within each licensure class, in order to more
11 appropriately recognize the individual needs of patients in
12 nursing facilities.

13 The Department of Healthcare and Family Services shall
14 provide, during the process of establishing the payment rate
15 for nursing facility, specialized mental health rehabilitation
16 facility, or ICF/DD services, or when a substantial change in
17 rates is proposed, an opportunity for public review and comment
18 on the proposed rates prior to their becoming effective.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13.)

21 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

22 Sec. 5-5.12. Pharmacy payments.

23 (a) Every request submitted by a pharmacy for reimbursement
24 under this Article for prescription drugs provided to a
25 recipient of aid under this Article shall include the name of

1 the prescriber or an acceptable identification number as
2 established by the Department.

3 (b) Pharmacies providing prescription drugs under this
4 Article shall be reimbursed at a rate which shall include a
5 professional dispensing fee as determined by the Illinois
6 Department, plus the current acquisition cost of the
7 prescription drug dispensed. The Illinois Department shall
8 update its information on the acquisition costs of all
9 prescription drugs no less frequently than every 30 days.
10 However, the Illinois Department may set the rate of
11 reimbursement for the acquisition cost, by rule, at a
12 percentage of the current average wholesale acquisition cost.

13 (c) (Blank).

14 (d) The Department shall review utilization of narcotic
15 medications in the medical assistance program and impose
16 utilization controls that protect against abuse.

17 (e) When making determinations as to which drugs shall be
18 on a prior approval list, the Department shall include as part
19 of the analysis for this determination, the degree to which a
20 drug may affect individuals in different ways based on factors
21 including the gender of the person taking the medication.

22 (f) The Department shall cooperate with the Department of
23 Public Health and the Department of Human Services Division of
24 Mental Health in identifying psychotropic medications that,
25 when given in a particular form, manner, duration, or frequency
26 (including "as needed") in a dosage, or in conjunction with

1 other psychotropic medications to a nursing home resident or to
2 a resident of a facility licensed under the ID/DD Community
3 Care Act or the MC/DD Act, may constitute a chemical restraint
4 or an "unnecessary drug" as defined by the Nursing Home Care
5 Act or Titles XVIII and XIX of the Social Security Act and the
6 implementing rules and regulations. The Department shall
7 require prior approval for any such medication prescribed for a
8 nursing home resident or to a resident of a facility licensed
9 under the ID/DD Community Care Act or the MC/DD Act, that
10 appears to be a chemical restraint or an unnecessary drug. The
11 Department shall consult with the Department of Human Services
12 Division of Mental Health in developing a protocol and criteria
13 for deciding whether to grant such prior approval.

14 (g) The Department may by rule provide for reimbursement of
15 the dispensing of a 90-day supply of a generic or brand name,
16 non-narcotic maintenance medication in circumstances where it
17 is cost effective.

18 (g-5) On and after July 1, 2012, the Department may require
19 the dispensing of drugs to nursing home residents be in a 7-day
20 supply or other amount less than a 31-day supply. The
21 Department shall pay only one dispensing fee per 31-day supply.

22 (h) Effective July 1, 2011, the Department shall
23 discontinue coverage of select over-the-counter drugs,
24 including analgesics and cough and cold and allergy
25 medications.

26 (h-5) On and after July 1, 2012, the Department shall

1 impose utilization controls, including, but not limited to,
2 prior approval on specialty drugs, oncolytic drugs, drugs for
3 the treatment of HIV or AIDS, immunosuppressant drugs, and
4 biological products in order to maximize savings on these
5 drugs. The Department may adjust payment methodologies for
6 non-pharmacy billed drugs in order to incentivize the selection
7 of lower-cost drugs. For drugs for the treatment of AIDS, the
8 Department shall take into consideration the potential for
9 non-adherence by certain populations, and shall develop
10 protocols with organizations or providers primarily serving
11 those with HIV/AIDS, as long as such measures intend to
12 maintain cost neutrality with other utilization management
13 controls such as prior approval. For hemophilia, the Department
14 shall develop a program of utilization review and control which
15 may include, in the discretion of the Department, prior
16 approvals. The Department may impose special standards on
17 providers that dispense blood factors which shall include, in
18 the discretion of the Department, staff training and education;
19 patient outreach and education; case management; in-home
20 patient assessments; assay management; maintenance of stock;
21 emergency dispensing timeframes; data collection and
22 reporting; dispensing of supplies related to blood factor
23 infusions; cold chain management and packaging practices; care
24 coordination; product recalls; and emergency clinical
25 consultation. The Department may require patients to receive a
26 comprehensive examination annually at an appropriate provider

1 in order to be eligible to continue to receive blood factor.

2 (i) On and after July 1, 2012, the Department shall reduce
3 any rate of reimbursement for services or other payments or
4 alter any methodologies authorized by this Code to reduce any
5 rate of reimbursement for services or other payments in
6 accordance with Section 5-5e.

7 (j) On and after July 1, 2012, the Department shall impose
8 limitations on prescription drugs such that the Department
9 shall not provide reimbursement for more than 4 prescriptions,
10 including 3 brand name prescriptions, for distinct drugs in a
11 30-day period, unless prior approval is received for all
12 prescriptions in excess of the 4-prescription limit. Drugs in
13 the following therapeutic classes shall not be subject to prior
14 approval as a result of the 4-prescription limit:
15 immunosuppressant drugs, oncolytic drugs, anti-retroviral
16 drugs, and, on or after July 1, 2014, antipsychotic drugs. On
17 or after July 1, 2014, the Department may exempt children with
18 complex medical needs enrolled in a care coordination entity
19 contracted with the Department to solely coordinate care for
20 such children, if the Department determines that the entity has
21 a comprehensive drug reconciliation program.

22 (k) No medication therapy management program implemented
23 by the Department shall be contrary to the provisions of the
24 Pharmacy Practice Act.

25 (l) Any provider enrolled with the Department that bills
26 the Department for outpatient drugs and is eligible to enroll

1 in the federal Drug Pricing Program under Section 340B of the
2 federal Public Health Services Act shall enroll in that
3 program. No entity participating in the federal Drug Pricing
4 Program under Section 340B of the federal Public Health
5 Services Act may exclude Medicaid from their participation in
6 that program, although the Department may exclude entities
7 defined in Section 1905(1)(2)(B) of the Social Security Act
8 from this requirement.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-74, eff. 6-30-11; 97-333,
10 eff. 8-12-11; 97-426, eff. 1-1-12; 97-689, eff. 6-14-12;
11 97-813, eff. 7-13-12; 98-463, eff. 8-16-13; 98-651, eff.
12 6-16-14.)

13 (305 ILCS 5/5-5e)

14 (Text of Section before amendment by P.A. 98-1166)

15 Sec. 5-5e. Adjusted rates of reimbursement.

16 (a) Rates or payments for services in effect on June 30,
17 2012 shall be adjusted and services shall be affected as
18 required by any other provision of this amendatory Act of the
19 97th General Assembly. In addition, the Department shall do the
20 following:

21 (1) Delink the per diem rate paid for supportive living
22 facility services from the per diem rate paid for nursing
23 facility services, effective for services provided on or
24 after May 1, 2011.

25 (2) Cease payment for bed reserves in nursing

1 facilities and specialized mental health rehabilitation
2 facilities.

3 (2.5) Cease payment for bed reserves for purposes of
4 inpatient hospitalizations to intermediate care facilities
5 for persons with development disabilities, except in the
6 instance of residents who are under 21 years of age.

7 (3) Cease payment of the \$10 per day add-on payment to
8 nursing facilities for certain residents with
9 developmental disabilities.

10 (b) After the application of subsection (a),
11 notwithstanding any other provision of this Code to the
12 contrary and to the extent permitted by federal law, on and
13 after July 1, 2012, the rates of reimbursement for services and
14 other payments provided under this Code shall further be
15 reduced as follows:

16 (1) Rates or payments for physician services, dental
17 services, or community health center services reimbursed
18 through an encounter rate, and services provided under the
19 Medicaid Rehabilitation Option of the Illinois Title XIX
20 State Plan shall not be further reduced.

21 (2) Rates or payments, or the portion thereof, paid to
22 a provider that is operated by a unit of local government
23 or State University that provides the non-federal share of
24 such services shall not be further reduced.

25 (3) Rates or payments for hospital services delivered
26 by a hospital defined as a Safety-Net Hospital under

1 Section 5-5e.1 of this Code shall not be further reduced.

2 (4) Rates or payments for hospital services delivered
3 by a Critical Access Hospital, which is an Illinois
4 hospital designated as a critical care hospital by the
5 Department of Public Health in accordance with 42 CFR 485,
6 Subpart F, shall not be further reduced.

7 (5) Rates or payments for Nursing Facility Services
8 shall only be further adjusted pursuant to Section 5-5.2 of
9 this Code.

10 (6) Rates or payments for services delivered by long
11 term care facilities licensed under the ID/DD Community
12 Care Act and developmental training services shall not be
13 further reduced.

14 (7) Rates or payments for services provided under
15 capitation rates shall be adjusted taking into
16 consideration the rates reduction and covered services
17 required by this amendatory Act of the 97th General
18 Assembly.

19 (8) For hospitals not previously described in this
20 subsection, the rates or payments for hospital services
21 shall be further reduced by 3.5%, except for payments
22 authorized under Section 5A-12.4 of this Code.

23 (9) For all other rates or payments for services
24 delivered by providers not specifically referenced in
25 paragraphs (1) through (8), rates or payments shall be
26 further reduced by 2.7%.

1 (c) Any assessment imposed by this Code shall continue and
2 nothing in this Section shall be construed to cause it to
3 cease.

4 (d) Notwithstanding any other provision of this Code to the
5 contrary, subject to federal approval under Title XIX of the
6 Social Security Act, for dates of service on and after July 1,
7 2014, rates or payments for services provided for the purpose
8 of transitioning children from a hospital to home placement or
9 other appropriate setting by a children's community-based
10 health care center authorized under the Alternative Health Care
11 Delivery Act shall be \$683 per day.

12 (e) Notwithstanding any other provision of this Code to the
13 contrary, subject to federal approval under Title XIX of the
14 Social Security Act, for dates of service on and after July 1,
15 2014, rates or payments for home health visits shall be \$72.

16 (f) Notwithstanding any other provision of this Code to the
17 contrary, subject to federal approval under Title XIX of the
18 Social Security Act, for dates of service on and after July 1,
19 2014, rates or payments for the certified nursing assistant
20 component of the home health agency rate shall be \$20.

21 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13;
22 98-651, eff. 6-16-14.)

23 (Text of Section after amendment by P.A. 98-1166)
24 Sec. 5-5e. Adjusted rates of reimbursement.

25 (a) Rates or payments for services in effect on June 30,

1 2012 shall be adjusted and services shall be affected as
2 required by any other provision of this amendatory Act of the
3 97th General Assembly. In addition, the Department shall do the
4 following:

5 (1) Delink the per diem rate paid for supportive living
6 facility services from the per diem rate paid for nursing
7 facility services, effective for services provided on or
8 after May 1, 2011.

9 (2) Cease payment for bed reserves in nursing
10 facilities and specialized mental health rehabilitation
11 facilities; for purposes of therapeutic home visits for
12 individuals scoring as TBI on the MDS 3.0, beginning June
13 1, 2015, the Department shall approve payments for bed
14 reserves in nursing facilities and specialized mental
15 health rehabilitation facilities that have at least a 90%
16 occupancy level and at least 80% of their residents are
17 Medicaid eligible. Payment shall be at a daily rate of 75%
18 of an individual's current Medicaid per diem and shall not
19 exceed 10 days in a calendar month.

20 (2.5) Cease payment for bed reserves for purposes of
21 inpatient hospitalizations to intermediate care facilities
22 for persons with development disabilities, except in the
23 instance of residents who are under 21 years of age.

24 (3) Cease payment of the \$10 per day add-on payment to
25 nursing facilities for certain residents with
26 developmental disabilities.

1 (b) After the application of subsection (a),
2 notwithstanding any other provision of this Code to the
3 contrary and to the extent permitted by federal law, on and
4 after July 1, 2012, the rates of reimbursement for services and
5 other payments provided under this Code shall further be
6 reduced as follows:

7 (1) Rates or payments for physician services, dental
8 services, or community health center services reimbursed
9 through an encounter rate, and services provided under the
10 Medicaid Rehabilitation Option of the Illinois Title XIX
11 State Plan shall not be further reduced.

12 (2) Rates or payments, or the portion thereof, paid to
13 a provider that is operated by a unit of local government
14 or State University that provides the non-federal share of
15 such services shall not be further reduced.

16 (3) Rates or payments for hospital services delivered
17 by a hospital defined as a Safety-Net Hospital under
18 Section 5-5e.1 of this Code shall not be further reduced.

19 (4) Rates or payments for hospital services delivered
20 by a Critical Access Hospital, which is an Illinois
21 hospital designated as a critical care hospital by the
22 Department of Public Health in accordance with 42 CFR 485,
23 Subpart F, shall not be further reduced.

24 (5) Rates or payments for Nursing Facility Services
25 shall only be further adjusted pursuant to Section 5-5.2 of
26 this Code.

1 (6) Rates or payments for services delivered by long
2 term care facilities licensed under the ID/DD Community
3 Care Act or the MC/DD Act and developmental training
4 services shall not be further reduced.

5 (7) Rates or payments for services provided under
6 capitation rates shall be adjusted taking into
7 consideration the rates reduction and covered services
8 required by this amendatory Act of the 97th General
9 Assembly.

10 (8) For hospitals not previously described in this
11 subsection, the rates or payments for hospital services
12 shall be further reduced by 3.5%, except for payments
13 authorized under Section 5A-12.4 of this Code.

14 (9) For all other rates or payments for services
15 delivered by providers not specifically referenced in
16 paragraphs (1) through (8), rates or payments shall be
17 further reduced by 2.7%.

18 (c) Any assessment imposed by this Code shall continue and
19 nothing in this Section shall be construed to cause it to
20 cease.

21 (d) Notwithstanding any other provision of this Code to the
22 contrary, subject to federal approval under Title XIX of the
23 Social Security Act, for dates of service on and after July 1,
24 2014, rates or payments for services provided for the purpose
25 of transitioning children from a hospital to home placement or
26 other appropriate setting by a children's community-based

1 health care center authorized under the Alternative Health Care
2 Delivery Act shall be \$683 per day.

3 (e) Notwithstanding any other provision of this Code to the
4 contrary, subject to federal approval under Title XIX of the
5 Social Security Act, for dates of service on and after July 1,
6 2014, rates or payments for home health visits shall be \$72.

7 (f) Notwithstanding any other provision of this Code to the
8 contrary, subject to federal approval under Title XIX of the
9 Social Security Act, for dates of service on and after July 1,
10 2014, rates or payments for the certified nursing assistant
11 component of the home health agency rate shall be \$20.

12 (Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13;
13 98-651, eff. 6-16-14; 98-1166, eff. 6-1-15.)

14 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

15 Sec. 5-6. Obligations incurred prior to death of a
16 recipient. Obligations incurred but not paid for at the time of
17 a recipient's death for services authorized under Section 5-5,
18 including medical and other care in facilities as defined in
19 the Nursing Home Care Act, the Specialized Mental Health
20 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
21 the MC/DD Act, or in like facilities not required to be
22 licensed under that Act, may be paid, subject to the rules and
23 regulations of the Illinois Department, after the death of the
24 recipient.

25 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,

1 eff. 7-13-12; 98-104, eff. 7-22-13.)

2 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

3 Sec. 5B-1. Definitions. As used in this Article, unless the
4 context requires otherwise:

5 "Fund" means the Long-Term Care Provider Fund.

6 "Long-term care facility" means (i) a nursing facility,
7 whether public or private and whether organized for profit or
8 not-for-profit, that is subject to licensure by the Illinois
9 Department of Public Health under the Nursing Home Care Act, ~~or~~
10 the ID/DD Community Care Act, or the MC/DD Act, including a
11 county nursing home directed and maintained under Section
12 5-1005 of the Counties Code, and (ii) a part of a hospital in
13 which skilled or intermediate long-term care services within
14 the meaning of Title XVIII or XIX of the Social Security Act
15 are provided; except that the term "long-term care facility"
16 does not include a facility operated by a State agency or
17 operated solely as an intermediate care facility for the
18 mentally retarded within the meaning of Title XIX of the Social
19 Security Act.

20 "Long-term care provider" means (i) a person licensed by
21 the Department of Public Health to operate and maintain a
22 skilled nursing or intermediate long-term care facility or (ii)
23 a hospital provider that provides skilled or intermediate
24 long-term care services within the meaning of Title XVIII or
25 XIX of the Social Security Act. For purposes of this paragraph,

1 "person" means any political subdivision of the State,
2 municipal corporation, individual, firm, partnership,
3 corporation, company, limited liability company, association,
4 joint stock association, or trust, or a receiver, executor,
5 trustee, guardian, or other representative appointed by order
6 of any court. "Hospital provider" means a person licensed by
7 the Department of Public Health to conduct, operate, or
8 maintain a hospital.

9 "Occupied bed days" shall be computed separately for each
10 long-term care facility operated or maintained by a long-term
11 care provider, and means the sum for all beds of the number of
12 days during the month on which each bed was occupied by a
13 resident, other than a resident for whom Medicare Part A is the
14 primary payer. For a resident whose care is covered by the
15 Medicare Medicaid Alignment initiative demonstration, Medicare
16 Part A is considered the primary payer.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-651, eff. 6-16-14.)

19 (305 ILCS 5/5E-5)

20 Sec. 5E-5. Definitions. As used in this Article, unless the
21 context requires otherwise:

22 "Nursing home" means (i) a skilled nursing or intermediate
23 long-term care facility, whether public or private and whether
24 organized for profit or not-for-profit, that is subject to
25 licensure by the Illinois Department of Public Health under the

1 Nursing Home Care Act, ~~or~~ the ID/DD Community Care Act, or the
2 MC/DD Act, including a county nursing home directed and
3 maintained under Section 5-1005 of the Counties Code, and (ii)
4 a part of a hospital in which skilled or intermediate long-term
5 care services within the meaning of Title XVIII or XIX of the
6 Social Security Act are provided; except that the term "nursing
7 home" does not include a facility operated solely as an
8 intermediate care facility for the intellectually disabled
9 within the meaning of Title XIX of the Social Security Act or a
10 specialized mental health rehabilitation facility.

11 "Nursing home provider" means (i) a person licensed by the
12 Department of Public Health to operate and maintain a skilled
13 nursing or intermediate long-term care facility which charges
14 its residents, a third party payor, Medicaid, or Medicare for
15 skilled nursing or intermediate long-term care services, or
16 (ii) a hospital provider that provides skilled or intermediate
17 long-term care services within the meaning of Title XVIII or
18 XIX of the Social Security Act. "Nursing home provider" does
19 not include a person who operates or a provider who provides
20 services within a specialized mental health rehabilitation
21 facility. For purposes of this paragraph, "person" means any
22 political subdivision of the State, municipal corporation,
23 individual, firm, partnership, corporation, company, limited
24 liability company, association, joint stock association, or
25 trust, or a receiver, executor, trustee, guardian, or other
26 representative appointed by order of any court. "Hospital

1 provider" means a person licensed by the Department of Public
2 Health to conduct, operate, or maintain a hospital.

3 "Licensed bed days" shall be computed separately for each
4 nursing home operated or maintained by a nursing home provider
5 and means, with respect to a nursing home provider, the sum for
6 all nursing home beds of the number of days during a calendar
7 quarter on which each bed is covered by a license issued to
8 that provider under the Nursing Home Care Act or the Hospital
9 Licensing Act.

10 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,
11 eff. 1-1-12; 97-813, eff. 7-13-12.)

12 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

13 Sec. 8A-11. (a) No person shall:

14 (1) Knowingly charge a resident of a nursing home for
15 any services provided pursuant to Article V of the Illinois
16 Public Aid Code, money or other consideration at a rate in
17 excess of the rates established for covered services by the
18 Illinois Department pursuant to Article V of the Illinois
19 Public Aid Code; or

20 (2) Knowingly charge, solicit, accept or receive, in
21 addition to any amount otherwise authorized or required to
22 be paid pursuant to Article V of the Illinois Public Aid
23 Code, any gift, money, donation or other consideration:

24 (i) As a precondition to admitting or expediting
25 the admission of a recipient or applicant, pursuant to

1 Article V of the Illinois Public Aid Code, to a
2 long-term care facility as defined in Section 1-113 of
3 the Nursing Home Care Act or a facility as defined in
4 Section 1-113 of the ID/DD Community Care Act, Section
5 1-113 of the MC/DD Act, or Section 1-102 of the
6 Specialized Mental Health Rehabilitation Act of 2013;
7 and

8 (ii) As a requirement for the recipient's or
9 applicant's continued stay in such facility when the
10 cost of the services provided therein to the recipient
11 is paid for, in whole or in part, pursuant to Article V
12 of the Illinois Public Aid Code.

13 (b) Nothing herein shall prohibit a person from making a
14 voluntary contribution, gift or donation to a long-term care
15 facility.

16 (c) This paragraph shall not apply to agreements to provide
17 continuing care or life care between a life care facility as
18 defined by the Life Care Facilities Act, and a person
19 financially eligible for benefits pursuant to Article V of the
20 Illinois Public Aid Code.

21 (d) Any person who violates this Section shall be guilty of
22 a business offense and fined not less than \$5,000 nor more than
23 \$25,000.

24 (e) "Person", as used in this Section, means an individual,
25 corporation, partnership, or unincorporated association.

26 (f) The State's Attorney of the county in which the

1 facility is located and the Attorney General shall be notified
2 by the Illinois Department of any alleged violations of this
3 Section known to the Department.

4 (g) The Illinois Department shall adopt rules and
5 regulations to carry out the provisions of this Section.

6 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
7 eff. 7-13-12; 98-104, eff. 7-22-13.)

8 (305 ILCS 5/11-4.1)

9 Sec. 11-4.1. Medical providers assisting with applications
10 for medical assistance. A provider enrolled to provide medical
11 assistance services may, upon the request of an individual,
12 accompany, represent, and assist the individual in applying for
13 medical assistance under Article V of this Code. If an
14 individual is unable to request such assistance due to
15 incapacity or mental incompetence and has no other
16 representative willing or able to assist in the application
17 process, a facility licensed under the Nursing Home Care Act,
18 ~~or~~ the ID/DD Community Care Act, or the MC/DD Act or certified
19 under this Code is authorized to assist the individual in
20 applying for long-term care services. Subject to the provisions
21 of the Free Healthcare Benefits Application Assistance Act,
22 nothing in this Section shall be construed as prohibiting any
23 individual or entity from assisting another individual in
24 applying for medical assistance under Article V of this Code.

25 (Source: P.A. 96-1439, eff. 8-20-10; 97-227, eff. 1-1-12.)

1 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

2 Sec. 12-4.25. Medical assistance program; vendor
3 participation.

4 (A) The Illinois Department may deny, suspend, or terminate
5 the eligibility of any person, firm, corporation, association,
6 agency, institution or other legal entity to participate as a
7 vendor of goods or services to recipients under the medical
8 assistance program under Article V, or may exclude any such
9 person or entity from participation as such a vendor, and may
10 deny, suspend, or recover payments, if after reasonable notice
11 and opportunity for a hearing the Illinois Department finds:

12 (a) Such vendor is not complying with the Department's
13 policy or rules and regulations, or with the terms and
14 conditions prescribed by the Illinois Department in its
15 vendor agreement, which document shall be developed by the
16 Department as a result of negotiations with each vendor
17 category, including physicians, hospitals, long term care
18 facilities, pharmacists, optometrists, podiatric
19 physicians, and dentists setting forth the terms and
20 conditions applicable to the participation of each vendor
21 group in the program; or

22 (b) Such vendor has failed to keep or make available
23 for inspection, audit or copying, after receiving a written
24 request from the Illinois Department, such records
25 regarding payments claimed for providing services. This

1 section does not require vendors to make available patient
2 records of patients for whom services are not reimbursed
3 under this Code; or

4 (c) Such vendor has failed to furnish any information
5 requested by the Department regarding payments for
6 providing goods or services; or

7 (d) Such vendor has knowingly made, or caused to be
8 made, any false statement or representation of a material
9 fact in connection with the administration of the medical
10 assistance program; or

11 (e) Such vendor has furnished goods or services to a
12 recipient which are (1) in excess of need, (2) harmful, or
13 (3) of grossly inferior quality, all of such determinations
14 to be based upon competent medical judgment and
15 evaluations; or

16 (f) The vendor; a person with management
17 responsibility for a vendor; an officer or person owning,
18 either directly or indirectly, 5% or more of the shares of
19 stock or other evidences of ownership in a corporate
20 vendor; an owner of a sole proprietorship which is a
21 vendor; or a partner in a partnership which is a vendor,
22 either:

23 (1) was previously terminated, suspended, or
24 excluded from participation in the Illinois medical
25 assistance program, or was terminated, suspended, or
26 excluded from participation in another state or

1 federal medical assistance or health care program; or

2 (2) was a person with management responsibility
3 for a vendor previously terminated, suspended, or
4 excluded from participation in the Illinois medical
5 assistance program, or terminated, suspended, or
6 excluded from participation in another state or
7 federal medical assistance or health care program
8 during the time of conduct which was the basis for that
9 vendor's termination, suspension, or exclusion; or

10 (3) was an officer, or person owning, either
11 directly or indirectly, 5% or more of the shares of
12 stock or other evidences of ownership in a corporate or
13 limited liability company vendor previously
14 terminated, suspended, or excluded from participation
15 in the Illinois medical assistance program, or
16 terminated, suspended, or excluded from participation
17 in a state or federal medical assistance or health care
18 program during the time of conduct which was the basis
19 for that vendor's termination, suspension, or
20 exclusion; or

21 (4) was an owner of a sole proprietorship or
22 partner of a partnership previously terminated,
23 suspended, or excluded from participation in the
24 Illinois medical assistance program, or terminated,
25 suspended, or excluded from participation in a state or
26 federal medical assistance or health care program

1 during the time of conduct which was the basis for that
2 vendor's termination, suspension, or exclusion; or

3 (f-1) Such vendor has a delinquent debt owed to the
4 Illinois Department; or

5 (g) The vendor; a person with management
6 responsibility for a vendor; an officer or person owning,
7 either directly or indirectly, 5% or more of the shares of
8 stock or other evidences of ownership in a corporate or
9 limited liability company vendor; an owner of a sole
10 proprietorship which is a vendor; or a partner in a
11 partnership which is a vendor, either:

12 (1) has engaged in practices prohibited by
13 applicable federal or State law or regulation; or

14 (2) was a person with management responsibility
15 for a vendor at the time that such vendor engaged in
16 practices prohibited by applicable federal or State
17 law or regulation; or

18 (3) was an officer, or person owning, either
19 directly or indirectly, 5% or more of the shares of
20 stock or other evidences of ownership in a vendor at
21 the time such vendor engaged in practices prohibited by
22 applicable federal or State law or regulation; or

23 (4) was an owner of a sole proprietorship or
24 partner of a partnership which was a vendor at the time
25 such vendor engaged in practices prohibited by
26 applicable federal or State law or regulation; or

1 (h) The direct or indirect ownership of the vendor
2 (including the ownership of a vendor that is a sole
3 proprietorship, a partner's interest in a vendor that is a
4 partnership, or ownership of 5% or more of the shares of
5 stock or other evidences of ownership in a corporate
6 vendor) has been transferred by an individual who is
7 terminated, suspended, or excluded or barred from
8 participating as a vendor to the individual's spouse,
9 child, brother, sister, parent, grandparent, grandchild,
10 uncle, aunt, niece, nephew, cousin, or relative by
11 marriage.

12 (A-5) The Illinois Department may deny, suspend, or
13 terminate the eligibility of any person, firm, corporation,
14 association, agency, institution, or other legal entity to
15 participate as a vendor of goods or services to recipients
16 under the medical assistance program under Article V, or may
17 exclude any such person or entity from participation as such a
18 vendor, if, after reasonable notice and opportunity for a
19 hearing, the Illinois Department finds that the vendor; a
20 person with management responsibility for a vendor; an officer
21 or person owning, either directly or indirectly, 5% or more of
22 the shares of stock or other evidences of ownership in a
23 corporate vendor; an owner of a sole proprietorship that is a
24 vendor; or a partner in a partnership that is a vendor has been
25 convicted of an offense based on fraud or willful
26 misrepresentation related to any of the following:

1 (1) The medical assistance program under Article V of
2 this Code.

3 (2) A medical assistance or health care program in
4 another state.

5 (3) The Medicare program under Title XVIII of the
6 Social Security Act.

7 (4) The provision of health care services.

8 (5) A violation of this Code, as provided in Article
9 VIIIA, or another state or federal medical assistance
10 program or health care program.

11 (A-10) The Illinois Department may deny, suspend, or
12 terminate the eligibility of any person, firm, corporation,
13 association, agency, institution, or other legal entity to
14 participate as a vendor of goods or services to recipients
15 under the medical assistance program under Article V, or may
16 exclude any such person or entity from participation as such a
17 vendor, if, after reasonable notice and opportunity for a
18 hearing, the Illinois Department finds that (i) the vendor,
19 (ii) a person with management responsibility for a vendor,
20 (iii) an officer or person owning, either directly or
21 indirectly, 5% or more of the shares of stock or other
22 evidences of ownership in a corporate vendor, (iv) an owner of
23 a sole proprietorship that is a vendor, or (v) a partner in a
24 partnership that is a vendor has been convicted of an offense
25 related to any of the following:

26 (1) Murder.

1 (2) A Class X felony under the Criminal Code of 1961 or
2 the Criminal Code of 2012.

3 (3) Sexual misconduct that may subject recipients to an
4 undue risk of harm.

5 (4) A criminal offense that may subject recipients to
6 an undue risk of harm.

7 (5) A crime of fraud or dishonesty.

8 (6) A crime involving a controlled substance.

9 (7) A misdemeanor relating to fraud, theft,
10 embezzlement, breach of fiduciary responsibility, or other
11 financial misconduct related to a health care program.

12 (A-15) The Illinois Department may deny the eligibility of
13 any person, firm, corporation, association, agency,
14 institution, or other legal entity to participate as a vendor
15 of goods or services to recipients under the medical assistance
16 program under Article V if, after reasonable notice and
17 opportunity for a hearing, the Illinois Department finds:

18 (1) The applicant or any person with management
19 responsibility for the applicant; an officer or member of
20 the board of directors of an applicant; an entity owning
21 (directly or indirectly) 5% or more of the shares of stock
22 or other evidences of ownership in a corporate vendor
23 applicant; an owner of a sole proprietorship applicant; a
24 partner in a partnership applicant; or a technical or other
25 advisor to an applicant has a debt owed to the Illinois
26 Department, and no payment arrangements acceptable to the

1 Illinois Department have been made by the applicant.

2 (2) The applicant or any person with management
3 responsibility for the applicant; an officer or member of
4 the board of directors of an applicant; an entity owning
5 (directly or indirectly) 5% or more of the shares of stock
6 or other evidences of ownership in a corporate vendor
7 applicant; an owner of a sole proprietorship applicant; a
8 partner in a partnership vendor applicant; or a technical
9 or other advisor to an applicant was (i) a person with
10 management responsibility, (ii) an officer or member of the
11 board of directors of an applicant, (iii) an entity owning
12 (directly or indirectly) 5% or more of the shares of stock
13 or other evidences of ownership in a corporate vendor, (iv)
14 an owner of a sole proprietorship, (v) a partner in a
15 partnership vendor, (vi) a technical or other advisor to a
16 vendor, during a period of time where the conduct of that
17 vendor resulted in a debt owed to the Illinois Department,
18 and no payment arrangements acceptable to the Illinois
19 Department have been made by that vendor.

20 (3) There is a credible allegation of the use,
21 transfer, or lease of assets of any kind to an applicant
22 from a current or prior vendor who has a debt owed to the
23 Illinois Department, no payment arrangements acceptable to
24 the Illinois Department have been made by that vendor or
25 the vendor's alternate payee, and the applicant knows or
26 should have known of such debt.

1 (4) There is a credible allegation of a transfer of
2 management responsibilities, or direct or indirect
3 ownership, to an applicant from a current or prior vendor
4 who has a debt owed to the Illinois Department, and no
5 payment arrangements acceptable to the Illinois Department
6 have been made by that vendor or the vendor's alternate
7 payee, and the applicant knows or should have known of such
8 debt.

9 (5) There is a credible allegation of the use,
10 transfer, or lease of assets of any kind to an applicant
11 who is a spouse, child, brother, sister, parent,
12 grandparent, grandchild, uncle, aunt, niece, relative by
13 marriage, nephew, cousin, or relative of a current or prior
14 vendor who has a debt owed to the Illinois Department and
15 no payment arrangements acceptable to the Illinois
16 Department have been made.

17 (6) There is a credible allegation that the applicant's
18 previous affiliations with a provider of medical services
19 that has an uncollected debt, a provider that has been or
20 is subject to a payment suspension under a federal health
21 care program, or a provider that has been previously
22 excluded from participation in the medical assistance
23 program, poses a risk of fraud, waste, or abuse to the
24 Illinois Department.

25 As used in this subsection, "credible allegation" is
26 defined to include an allegation from any source, including,

1 but not limited to, fraud hotline complaints, claims data
2 mining, patterns identified through provider audits, civil
3 actions filed under the Illinois False Claims Act, and law
4 enforcement investigations. An allegation is considered to be
5 credible when it has indicia of reliability.

6 (B) The Illinois Department shall deny, suspend or
7 terminate the eligibility of any person, firm, corporation,
8 association, agency, institution or other legal entity to
9 participate as a vendor of goods or services to recipients
10 under the medical assistance program under Article V, or may
11 exclude any such person or entity from participation as such a
12 vendor:

13 (1) immediately, if such vendor is not properly
14 licensed, certified, or authorized;

15 (2) within 30 days of the date when such vendor's
16 professional license, certification or other authorization
17 has been refused renewal, restricted, revoked, suspended,
18 or otherwise terminated; or

19 (3) if such vendor has been convicted of a violation of
20 this Code, as provided in Article VIII A.

21 (C) Upon termination, suspension, or exclusion of a vendor
22 of goods or services from participation in the medical
23 assistance program authorized by this Article, a person with
24 management responsibility for such vendor during the time of
25 any conduct which served as the basis for that vendor's
26 termination, suspension, or exclusion is barred from

1 participation in the medical assistance program.

2 Upon termination, suspension, or exclusion of a corporate
3 vendor, the officers and persons owning, directly or
4 indirectly, 5% or more of the shares of stock or other
5 evidences of ownership in the vendor during the time of any
6 conduct which served as the basis for that vendor's
7 termination, suspension, or exclusion are barred from
8 participation in the medical assistance program. A person who
9 owns, directly or indirectly, 5% or more of the shares of stock
10 or other evidences of ownership in a terminated, suspended, or
11 excluded vendor may not transfer his or her ownership interest
12 in that vendor to his or her spouse, child, brother, sister,
13 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
14 cousin, or relative by marriage.

15 Upon termination, suspension, or exclusion of a sole
16 proprietorship or partnership, the owner or partners during the
17 time of any conduct which served as the basis for that vendor's
18 termination, suspension, or exclusion are barred from
19 participation in the medical assistance program. The owner of a
20 terminated, suspended, or excluded vendor that is a sole
21 proprietorship, and a partner in a terminated, suspended, or
22 excluded vendor that is a partnership, may not transfer his or
23 her ownership or partnership interest in that vendor to his or
24 her spouse, child, brother, sister, parent, grandparent,
25 grandchild, uncle, aunt, niece, nephew, cousin, or relative by
26 marriage.

1 A person who owns, directly or indirectly, 5% or more of
2 the shares of stock or other evidences of ownership in a
3 corporate or limited liability company vendor who owes a debt
4 to the Department, if that vendor has not made payment
5 arrangements acceptable to the Department, shall not transfer
6 his or her ownership interest in that vendor, or vendor assets
7 of any kind, to his or her spouse, child, brother, sister,
8 parent, grandparent, grandchild, uncle, aunt, niece, nephew,
9 cousin, or relative by marriage.

10 Rules adopted by the Illinois Department to implement these
11 provisions shall specifically include a definition of the term
12 "management responsibility" as used in this Section. Such
13 definition shall include, but not be limited to, typical job
14 titles, and duties and descriptions which will be considered as
15 within the definition of individuals with management
16 responsibility for a provider.

17 A vendor or a prior vendor who has been terminated,
18 excluded, or suspended from the medical assistance program, or
19 from another state or federal medical assistance or health care
20 program, and any individual currently or previously barred from
21 the medical assistance program, or from another state or
22 federal medical assistance or health care program, as a result
23 of being an officer or a person owning, directly or indirectly,
24 5% or more of the shares of stock or other evidences of
25 ownership in a corporate or limited liability company vendor
26 during the time of any conduct which served as the basis for

1 that vendor's termination, suspension, or exclusion, may be
2 required to post a surety bond as part of a condition of
3 enrollment or participation in the medical assistance program.
4 The Illinois Department shall establish, by rule, the criteria
5 and requirements for determining when a surety bond must be
6 posted and the value of the bond.

7 A vendor or a prior vendor who has a debt owed to the
8 Illinois Department and any individual currently or previously
9 barred from the medical assistance program, or from another
10 state or federal medical assistance or health care program, as
11 a result of being an officer or a person owning, directly or
12 indirectly, 5% or more of the shares of stock or other
13 evidences of ownership in that corporate or limited liability
14 company vendor during the time of any conduct which served as
15 the basis for the debt, may be required to post a surety bond
16 as part of a condition of enrollment or participation in the
17 medical assistance program. The Illinois Department shall
18 establish, by rule, the criteria and requirements for
19 determining when a surety bond must be posted and the value of
20 the bond.

21 (D) If a vendor has been suspended from the medical
22 assistance program under Article V of the Code, the Director
23 may require that such vendor correct any deficiencies which
24 served as the basis for the suspension. The Director shall
25 specify in the suspension order a specific period of time,
26 which shall not exceed one year from the date of the order,

1 during which a suspended vendor shall not be eligible to
2 participate. At the conclusion of the period of suspension the
3 Director shall reinstate such vendor, unless he finds that such
4 vendor has not corrected deficiencies upon which the suspension
5 was based.

6 If a vendor has been terminated, suspended, or excluded
7 from the medical assistance program under Article V, such
8 vendor shall be barred from participation for at least one
9 year, except that if a vendor has been terminated, suspended,
10 or excluded based on a conviction of a violation of Article
11 VIIIA or a conviction of a felony based on fraud or a willful
12 misrepresentation related to (i) the medical assistance
13 program under Article V, (ii) a federal or another state's
14 medical assistance or health care program, or (iii) the
15 provision of health care services, then the vendor shall be
16 barred from participation for 5 years or for the length of the
17 vendor's sentence for that conviction, whichever is longer. At
18 the end of one year a vendor who has been terminated,
19 suspended, or excluded may apply for reinstatement to the
20 program. Upon proper application to be reinstated such vendor
21 may be deemed eligible by the Director providing that such
22 vendor meets the requirements for eligibility under this Code.
23 If such vendor is deemed not eligible for reinstatement, he
24 shall be barred from again applying for reinstatement for one
25 year from the date his application for reinstatement is denied.

26 A vendor whose termination, suspension, or exclusion from

1 participation in the Illinois medical assistance program under
2 Article V was based solely on an action by a governmental
3 entity other than the Illinois Department may, upon
4 reinstatement by that governmental entity or upon reversal of
5 the termination, suspension, or exclusion, apply for
6 rescission of the termination, suspension, or exclusion from
7 participation in the Illinois medical assistance program. Upon
8 proper application for rescission, the vendor may be deemed
9 eligible by the Director if the vendor meets the requirements
10 for eligibility under this Code.

11 If a vendor has been terminated, suspended, or excluded and
12 reinstated to the medical assistance program under Article V
13 and the vendor is terminated, suspended, or excluded a second
14 or subsequent time from the medical assistance program, the
15 vendor shall be barred from participation for at least 2 years,
16 except that if a vendor has been terminated, suspended, or
17 excluded a second time based on a conviction of a violation of
18 Article VIIIA or a conviction of a felony based on fraud or a
19 willful misrepresentation related to (i) the medical
20 assistance program under Article V, (ii) a federal or another
21 state's medical assistance or health care program, or (iii) the
22 provision of health care services, then the vendor shall be
23 barred from participation for life. At the end of 2 years, a
24 vendor who has been terminated, suspended, or excluded may
25 apply for reinstatement to the program. Upon application to be
26 reinstated, the vendor may be deemed eligible if the vendor

1 meets the requirements for eligibility under this Code. If the
2 vendor is deemed not eligible for reinstatement, the vendor
3 shall be barred from again applying for reinstatement for 2
4 years from the date the vendor's application for reinstatement
5 is denied.

6 (E) The Illinois Department may recover money improperly or
7 erroneously paid, or overpayments, either by setoff, crediting
8 against future billings or by requiring direct repayment to the
9 Illinois Department. The Illinois Department may suspend or
10 deny payment, in whole or in part, if such payment would be
11 improper or erroneous or would otherwise result in overpayment.

12 (1) Payments may be suspended, denied, or recovered
13 from a vendor or alternate payee: (i) for services rendered
14 in violation of the Illinois Department's provider
15 notices, statutes, rules, and regulations; (ii) for
16 services rendered in violation of the terms and conditions
17 prescribed by the Illinois Department in its vendor
18 agreement; (iii) for any vendor who fails to grant the
19 Office of Inspector General timely access to full and
20 complete records, including, but not limited to, records
21 relating to recipients under the medical assistance
22 program for the most recent 6 years, in accordance with
23 Section 140.28 of Title 89 of the Illinois Administrative
24 Code, and other information for the purpose of audits,
25 investigations, or other program integrity functions,
26 after reasonable written request by the Inspector General;

1 this subsection (E) does not require vendors to make
2 available the medical records of patients for whom services
3 are not reimbursed under this Code or to provide access to
4 medical records more than 6 years old; (iv) when the vendor
5 has knowingly made, or caused to be made, any false
6 statement or representation of a material fact in
7 connection with the administration of the medical
8 assistance program; or (v) when the vendor previously
9 rendered services while terminated, suspended, or excluded
10 from participation in the medical assistance program or
11 while terminated or excluded from participation in another
12 state or federal medical assistance or health care program.

13 (2) Notwithstanding any other provision of law, if a
14 vendor has the same taxpayer identification number
15 (assigned under Section 6109 of the Internal Revenue Code
16 of 1986) as is assigned to a vendor with past-due financial
17 obligations to the Illinois Department, the Illinois
18 Department may make any necessary adjustments to payments
19 to that vendor in order to satisfy any past-due
20 obligations, regardless of whether the vendor is assigned a
21 different billing number under the medical assistance
22 program.

23 (E-5) Civil monetary penalties.

24 (1) As used in this subsection (E-5):

25 (a) "Knowingly" means that a person, with respect
26 to information: (i) has actual knowledge of the

1 information; (ii) acts in deliberate ignorance of the
2 truth or falsity of the information; or (iii) acts in
3 reckless disregard of the truth or falsity of the
4 information. No proof of specific intent to defraud is
5 required.

6 (b) "Overpayment" means any funds that a person
7 receives or retains from the medical assistance
8 program to which the person, after applicable
9 reconciliation, is not entitled under this Code.

10 (c) "Remuneration" means the offer or transfer of
11 items or services for free or for other than fair
12 market value by a person; however, remuneration does
13 not include items or services of a nominal value of no
14 more than \$10 per item or service, or \$50 in the
15 aggregate on an annual basis, or any other offer or
16 transfer of items or services as determined by the
17 Department.

18 (d) "Should know" means that a person, with respect
19 to information: (i) acts in deliberate ignorance of the
20 truth or falsity of the information; or (ii) acts in
21 reckless disregard of the truth or falsity of the
22 information. No proof of specific intent to defraud is
23 required.

24 (2) Any person (including a vendor, provider,
25 organization, agency, or other entity, or an alternate
26 payee thereof, but excluding a recipient) who:

1 licensing); or

2 (CC) represented to the patient at the
3 time the service was furnished that the
4 physician was certified in a medical specialty
5 by a medical specialty board, when the
6 individual was not so certified;

7 (iv) is for a medical or other item or service
8 furnished during a period in which the person was
9 excluded from the medical assistance program or a
10 federal or state health care program under which
11 the claim was made pursuant to applicable law; or

12 (v) is for a pattern of medical or other items
13 or services that a person knows or should know are
14 not medically necessary;

15 (b) knowingly presents or causes to be presented to
16 any person a request for payment which is in violation
17 of the conditions for receipt of vendor payments under
18 the medical assistance program under Section 11-13 of
19 this Code;

20 (c) knowingly gives or causes to be given to any
21 person, with respect to medical assistance program
22 coverage of inpatient hospital services, information
23 that he or she knows or should know is false or
24 misleading, and that could reasonably be expected to
25 influence the decision when to discharge such person or
26 other individual from the hospital;

1 (d) in the case of a person who is not an
2 organization, agency, or other entity, is excluded
3 from participating in the medical assistance program
4 or a federal or state health care program and who, at
5 the time of a violation of this subsection (E-5):

6 (i) retains a direct or indirect ownership or
7 control interest in an entity that is
8 participating in the medical assistance program or
9 a federal or state health care program, and who
10 knows or should know of the action constituting the
11 basis for the exclusion; or

12 (ii) is an officer or managing employee of such
13 an entity;

14 (e) offers or transfers remuneration to any
15 individual eligible for benefits under the medical
16 assistance program that such person knows or should
17 know is likely to influence such individual to order or
18 receive from a particular vendor, provider,
19 practitioner, or supplier any item or service for which
20 payment may be made, in whole or in part, under the
21 medical assistance program;

22 (f) arranges or contracts (by employment or
23 otherwise) with an individual or entity that the person
24 knows or should know is excluded from participation in
25 the medical assistance program or a federal or state
26 health care program, for the provision of items or

1 services for which payment may be made under such a
2 program;

3 (g) commits an act described in subsection (b) or
4 (c) of Section 8A-3;

5 (h) knowingly makes, uses, or causes to be made or
6 used, a false record or statement material to a false
7 or fraudulent claim for payment for items and services
8 furnished under the medical assistance program;

9 (i) fails to grant timely access, upon reasonable
10 request (as defined by the Department by rule), to the
11 Inspector General, for the purpose of audits,
12 investigations, evaluations, or other statutory
13 functions of the Inspector General of the Department;

14 (j) orders or prescribes a medical or other item or
15 service during a period in which the person was
16 excluded from the medical assistance program or a
17 federal or state health care program, in the case where
18 the person knows or should know that a claim for such
19 medical or other item or service will be made under
20 such a program;

21 (k) knowingly makes or causes to be made any false
22 statement, omission, or misrepresentation of a
23 material fact in any application, bid, or contract to
24 participate or enroll as a vendor or provider of
25 services or a supplier under the medical assistance
26 program;

1 (1) knows of an overpayment and does not report and
2 return the overpayment to the Department in accordance
3 with paragraph (6);

4 shall be subject, in addition to any other penalties that
5 may be prescribed by law, to a civil money penalty of not
6 more than \$10,000 for each item or service (or, in cases
7 under subparagraph (c), \$15,000 for each individual with
8 respect to whom false or misleading information was given;
9 in cases under subparagraph (d), \$10,000 for each day the
10 prohibited relationship occurs; in cases under
11 subparagraph (g), \$50,000 for each such act; in cases under
12 subparagraph (h), \$50,000 for each false record or
13 statement; in cases under subparagraph (i), \$15,000 for
14 each day of the failure described in such subparagraph; or
15 in cases under subparagraph (k), \$50,000 for each false
16 statement, omission, or misrepresentation of a material
17 fact). In addition, such a person shall be subject to an
18 assessment of not more than 3 times the amount claimed for
19 each such item or service in lieu of damages sustained by
20 the State because of such claim (or, in cases under
21 subparagraph (g), damages of not more than 3 times the
22 total amount of remuneration offered, paid, solicited, or
23 received, without regard to whether a portion of such
24 remuneration was offered, paid, solicited, or received for
25 a lawful purpose; or in cases under subparagraph (k), an
26 assessment of not more than 3 times the total amount

1 claimed for each item or service for which payment was made
2 based upon the application, bid, or contract containing the
3 false statement, omission, or misrepresentation of a
4 material fact).

5 (3) In addition, the Director or his or her designee
6 may make a determination in the same proceeding to exclude,
7 terminate, suspend, or bar the person from participation in
8 the medical assistance program.

9 (4) The Illinois Department may seek the civil monetary
10 penalties and exclusion, termination, suspension, or
11 barment identified in this subsection (E-5). Prior to the
12 imposition of any penalties or sanctions, the affected
13 person shall be afforded an opportunity for a hearing after
14 reasonable notice. The Department shall establish hearing
15 procedures by rule.

16 (5) Any final order, decision, or other determination
17 made, issued, or executed by the Director under the
18 provisions of this subsection (E-5), whereby a person is
19 aggrieved, shall be subject to review in accordance with
20 the provisions of the Administrative Review Law, and the
21 rules adopted pursuant thereto, which shall apply to and
22 govern all proceedings for the judicial review of final
23 administrative decisions of the Director.

24 (6) (a) If a person has received an overpayment, the
25 person shall:

26 (i) report and return the overpayment to the

1 Department at the correct address; and

2 (ii) notify the Department in writing of the reason
3 for the overpayment.

4 (b) An overpayment must be reported and returned under
5 subparagraph (a) by the later of:

6 (i) the date which is 60 days after the date on
7 which the overpayment was identified; or

8 (ii) the date any corresponding cost report is due,
9 if applicable.

10 (E-10) A vendor who disputes an overpayment identified as
11 part of a Department audit shall utilize the Department's
12 self-referral disclosure protocol as set forth under this Code
13 to identify, investigate, and return to the Department any
14 undisputed audit overpayment amount. Unless the disputed
15 overpayment amount is subject to a fraud payment suspension, or
16 involves a termination sanction, the Department shall defer the
17 recovery of the disputed overpayment amount up to one year
18 after the date of the Department's final audit determination,
19 or earlier, or as required by State or federal law. If the
20 administrative hearing extends beyond one year, and such delay
21 was not caused by the request of the vendor, then the
22 Department shall not recover the disputed overpayment amount
23 until the date of the final administrative decision. If a final
24 administrative decision establishes that the disputed
25 overpayment amount is owed to the Department, then the amount
26 shall be immediately due to the Department. The Department

1 shall be entitled to recover interest from the vendor on the
2 overpayment amount from the date of the overpayment through the
3 date the vendor returns the overpayment to the Department at a
4 rate not to exceed the Wall Street Journal Prime Rate, as
5 published from time to time, but not to exceed 5%. Any interest
6 billed by the Department shall be due immediately upon receipt
7 of the Department's billing statement.

8 (F) The Illinois Department may withhold payments to any
9 vendor or alternate payee prior to or during the pendency of
10 any audit or proceeding under this Section, and through the
11 pendency of any administrative appeal or administrative review
12 by any court proceeding. The Illinois Department shall state by
13 rule with as much specificity as practicable the conditions
14 under which payments will not be withheld under this Section.
15 Payments may be denied for bills submitted with service dates
16 occurring during the pendency of a proceeding, after a final
17 decision has been rendered, or after the conclusion of any
18 administrative appeal, where the final administrative decision
19 is to terminate, exclude, or suspend eligibility to participate
20 in the medical assistance program. The Illinois Department
21 shall state by rule with as much specificity as practicable the
22 conditions under which payments will not be denied for such
23 bills. The Illinois Department shall state by rule a process
24 and criteria by which a vendor or alternate payee may request
25 full or partial release of payments withheld under this
26 subsection. The Department must complete a proceeding under

1 this Section in a timely manner.

2 Notwithstanding recovery allowed under subsection (E) or
3 this subsection (F), the Illinois Department may withhold
4 payments to any vendor or alternate payee who is not properly
5 licensed, certified, or in compliance with State or federal
6 agency regulations. Payments may be denied for bills submitted
7 with service dates occurring during the period of time that a
8 vendor is not properly licensed, certified, or in compliance
9 with State or federal regulations. Facilities licensed under
10 the Nursing Home Care Act shall have payments denied or
11 withheld pursuant to subsection (I) of this Section.

12 (F-5) The Illinois Department may temporarily withhold
13 payments to a vendor or alternate payee if any of the following
14 individuals have been indicted or otherwise charged under a law
15 of the United States or this or any other state with an offense
16 that is based on alleged fraud or willful misrepresentation on
17 the part of the individual related to (i) the medical
18 assistance program under Article V of this Code, (ii) a federal
19 or another state's medical assistance or health care program,
20 or (iii) the provision of health care services:

21 (1) If the vendor or alternate payee is a corporation:
22 an officer of the corporation or an individual who owns,
23 either directly or indirectly, 5% or more of the shares of
24 stock or other evidence of ownership of the corporation.

25 (2) If the vendor is a sole proprietorship: the owner
26 of the sole proprietorship.

1 (3) If the vendor or alternate payee is a partnership:
2 a partner in the partnership.

3 (4) If the vendor or alternate payee is any other
4 business entity authorized by law to transact business in
5 this State: an officer of the entity or an individual who
6 owns, either directly or indirectly, 5% or more of the
7 evidences of ownership of the entity.

8 If the Illinois Department withholds payments to a vendor
9 or alternate payee under this subsection, the Department shall
10 not release those payments to the vendor or alternate payee
11 while any criminal proceeding related to the indictment or
12 charge is pending unless the Department determines that there
13 is good cause to release the payments before completion of the
14 proceeding. If the indictment or charge results in the
15 individual's conviction, the Illinois Department shall retain
16 all withheld payments, which shall be considered forfeited to
17 the Department. If the indictment or charge does not result in
18 the individual's conviction, the Illinois Department shall
19 release to the vendor or alternate payee all withheld payments.

20 (F-10) If the Illinois Department establishes that the
21 vendor or alternate payee owes a debt to the Illinois
22 Department, and the vendor or alternate payee subsequently
23 fails to pay or make satisfactory payment arrangements with the
24 Illinois Department for the debt owed, the Illinois Department
25 may seek all remedies available under the law of this State to
26 recover the debt, including, but not limited to, wage

1 garnishment or the filing of claims or liens against the vendor
2 or alternate payee.

3 (F-15) Enforcement of judgment.

4 (1) Any fine, recovery amount, other sanction, or costs
5 imposed, or part of any fine, recovery amount, other
6 sanction, or cost imposed, remaining unpaid after the
7 exhaustion of or the failure to exhaust judicial review
8 procedures under the Illinois Administrative Review Law is
9 a debt due and owing the State and may be collected using
10 all remedies available under the law.

11 (2) After expiration of the period in which judicial
12 review under the Illinois Administrative Review Law may be
13 sought for a final administrative decision, unless stayed
14 by a court of competent jurisdiction, the findings,
15 decision, and order of the Director may be enforced in the
16 same manner as a judgment entered by a court of competent
17 jurisdiction.

18 (3) In any case in which any person or entity has
19 failed to comply with a judgment ordering or imposing any
20 fine or other sanction, any expenses incurred by the
21 Illinois Department to enforce the judgment, including,
22 but not limited to, attorney's fees, court costs, and costs
23 related to property demolition or foreclosure, after they
24 are fixed by a court of competent jurisdiction or the
25 Director, shall be a debt due and owing the State and may
26 be collected in accordance with applicable law. Prior to

1 any expenses being fixed by a final administrative decision
2 pursuant to this subsection (F-15), the Illinois
3 Department shall provide notice to the individual or entity
4 that states that the individual or entity shall appear at a
5 hearing before the administrative hearing officer to
6 determine whether the individual or entity has failed to
7 comply with the judgment. The notice shall set the date for
8 such a hearing, which shall not be less than 7 days from
9 the date that notice is served. If notice is served by
10 mail, the 7-day period shall begin to run on the date that
11 the notice was deposited in the mail.

12 (4) Upon being recorded in the manner required by
13 Article XII of the Code of Civil Procedure or by the
14 Uniform Commercial Code, a lien shall be imposed on the
15 real estate or personal estate, or both, of the individual
16 or entity in the amount of any debt due and owing the State
17 under this Section. The lien may be enforced in the same
18 manner as a judgment of a court of competent jurisdiction.
19 A lien shall attach to all property and assets of such
20 person, firm, corporation, association, agency,
21 institution, or other legal entity until the judgment is
22 satisfied.

23 (5) The Director may set aside any judgment entered by
24 default and set a new hearing date upon a petition filed at
25 any time (i) if the petitioner's failure to appear at the
26 hearing was for good cause, or (ii) if the petitioner

1 established that the Department did not provide proper
2 service of process. If any judgment is set aside pursuant
3 to this paragraph (5), the hearing officer shall have
4 authority to enter an order extinguishing any lien which
5 has been recorded for any debt due and owing the Illinois
6 Department as a result of the vacated default judgment.

7 (G) The provisions of the Administrative Review Law, as now
8 or hereafter amended, and the rules adopted pursuant thereto,
9 shall apply to and govern all proceedings for the judicial
10 review of final administrative decisions of the Illinois
11 Department under this Section. The term "administrative
12 decision" is defined as in Section 3-101 of the Code of Civil
13 Procedure.

14 (G-5) Vendors who pose a risk of fraud, waste, abuse, or
15 harm.

16 (1) Notwithstanding any other provision in this
17 Section, the Department may terminate, suspend, or exclude
18 vendors who pose a risk of fraud, waste, abuse, or harm
19 from participation in the medical assistance program prior
20 to an evidentiary hearing but after reasonable notice and
21 opportunity to respond as established by the Department by
22 rule.

23 (2) Vendors who pose a risk of fraud, waste, abuse, or
24 harm shall submit to a fingerprint-based criminal
25 background check on current and future information
26 available in the State system and current information

1 available through the Federal Bureau of Investigation's
2 system by submitting all necessary fees and information in
3 the form and manner prescribed by the Department of State
4 Police. The following individuals shall be subject to the
5 check:

6 (A) In the case of a vendor that is a corporation,
7 every shareholder who owns, directly or indirectly, 5%
8 or more of the outstanding shares of the corporation.

9 (B) In the case of a vendor that is a partnership,
10 every partner.

11 (C) In the case of a vendor that is a sole
12 proprietorship, the sole proprietor.

13 (D) Each officer or manager of the vendor.

14 Each such vendor shall be responsible for payment of
15 the cost of the criminal background check.

16 (3) Vendors who pose a risk of fraud, waste, abuse, or
17 harm may be required to post a surety bond. The Department
18 shall establish, by rule, the criteria and requirements for
19 determining when a surety bond must be posted and the value
20 of the bond.

21 (4) The Department, or its agents, may refuse to accept
22 requests for authorization from specific vendors who pose a
23 risk of fraud, waste, abuse, or harm, including
24 prior-approval and post-approval requests, if:

25 (A) the Department has initiated a notice of
26 termination, suspension, or exclusion of the vendor

1 from participation in the medical assistance program;
2 or

3 (B) the Department has issued notification of its
4 withholding of payments pursuant to subsection (F-5)
5 of this Section; or

6 (C) the Department has issued a notification of its
7 withholding of payments due to reliable evidence of
8 fraud or willful misrepresentation pending
9 investigation.

10 (5) As used in this subsection, the following terms are
11 defined as follows:

12 (A) "Fraud" means an intentional deception or
13 misrepresentation made by a person with the knowledge
14 that the deception could result in some unauthorized
15 benefit to himself or herself or some other person. It
16 includes any act that constitutes fraud under
17 applicable federal or State law.

18 (B) "Abuse" means provider practices that are
19 inconsistent with sound fiscal, business, or medical
20 practices and that result in an unnecessary cost to the
21 medical assistance program or in reimbursement for
22 services that are not medically necessary or that fail
23 to meet professionally recognized standards for health
24 care. It also includes recipient practices that result
25 in unnecessary cost to the medical assistance program.
26 Abuse does not include diagnostic or therapeutic

1 measures conducted primarily as a safeguard against
2 possible vendor liability.

3 (C) "Waste" means the unintentional misuse of
4 medical assistance resources, resulting in unnecessary
5 cost to the medical assistance program. Waste does not
6 include diagnostic or therapeutic measures conducted
7 primarily as a safeguard against possible vendor
8 liability.

9 (D) "Harm" means physical, mental, or monetary
10 damage to recipients or to the medical assistance
11 program.

12 (G-6) The Illinois Department, upon making a determination
13 based upon information in the possession of the Illinois
14 Department that continuation of participation in the medical
15 assistance program by a vendor would constitute an immediate
16 danger to the public, may immediately suspend such vendor's
17 participation in the medical assistance program without a
18 hearing. In instances in which the Illinois Department
19 immediately suspends the medical assistance program
20 participation of a vendor under this Section, a hearing upon
21 the vendor's participation must be convened by the Illinois
22 Department within 15 days after such suspension and completed
23 without appreciable delay. Such hearing shall be held to
24 determine whether to recommend to the Director that the
25 vendor's medical assistance program participation be denied,
26 terminated, suspended, placed on provisional status, or

1 reinstated. In the hearing, any evidence relevant to the vendor
2 constituting an immediate danger to the public may be
3 introduced against such vendor; provided, however, that the
4 vendor, or his or her counsel, shall have the opportunity to
5 discredit, impeach, and submit evidence rebutting such
6 evidence.

7 (H) Nothing contained in this Code shall in any way limit
8 or otherwise impair the authority or power of any State agency
9 responsible for licensing of vendors.

10 (I) Based on a finding of noncompliance on the part of a
11 nursing home with any requirement for certification under Title
12 XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 1395 et
13 seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois Department
14 may impose one or more of the following remedies after notice
15 to the facility:

16 (1) Termination of the provider agreement.

17 (2) Temporary management.

18 (3) Denial of payment for new admissions.

19 (4) Civil money penalties.

20 (5) Closure of the facility in emergency situations or
21 transfer of residents, or both.

22 (6) State monitoring.

23 (7) Denial of all payments when the U.S. Department of
24 Health and Human Services has imposed this sanction.

25 The Illinois Department shall by rule establish criteria
26 governing continued payments to a nursing facility subsequent

1 to termination of the facility's provider agreement if, in the
2 sole discretion of the Illinois Department, circumstances
3 affecting the health, safety, and welfare of the facility's
4 residents require those continued payments. The Illinois
5 Department may condition those continued payments on the
6 appointment of temporary management, sale of the facility to
7 new owners or operators, or other arrangements that the
8 Illinois Department determines best serve the needs of the
9 facility's residents.

10 Except in the case of a facility that has a right to a
11 hearing on the finding of noncompliance before an agency of the
12 federal government, a facility may request a hearing before a
13 State agency on any finding of noncompliance within 60 days
14 after the notice of the intent to impose a remedy. Except in
15 the case of civil money penalties, a request for a hearing
16 shall not delay imposition of the penalty. The choice of
17 remedies is not appealable at a hearing. The level of
18 noncompliance may be challenged only in the case of a civil
19 money penalty. The Illinois Department shall provide by rule
20 for the State agency that will conduct the evidentiary
21 hearings.

22 The Illinois Department may collect interest on unpaid
23 civil money penalties.

24 The Illinois Department may adopt all rules necessary to
25 implement this subsection (I).

26 (J) The Illinois Department, by rule, may permit individual

1 practitioners to designate that Department payments that may be
2 due the practitioner be made to an alternate payee or alternate
3 payees.

4 (a) Such alternate payee or alternate payees shall be
5 required to register as an alternate payee in the Medical
6 Assistance Program with the Illinois Department.

7 (b) If a practitioner designates an alternate payee,
8 the alternate payee and practitioner shall be jointly and
9 severally liable to the Department for payments made to the
10 alternate payee. Pursuant to subsection (E) of this
11 Section, any Department action to suspend or deny payment
12 or recover money or overpayments from an alternate payee
13 shall be subject to an administrative hearing.

14 (c) Registration as an alternate payee or alternate
15 payees in the Illinois Medical Assistance Program shall be
16 conditional. At any time, the Illinois Department may deny
17 or cancel any alternate payee's registration in the
18 Illinois Medical Assistance Program without cause. Any
19 such denial or cancellation is not subject to an
20 administrative hearing.

21 (d) The Illinois Department may seek a revocation of
22 any alternate payee, and all owners, officers, and
23 individuals with management responsibility for such
24 alternate payee shall be permanently prohibited from
25 participating as an owner, an officer, or an individual
26 with management responsibility with an alternate payee in

1 the Illinois Medical Assistance Program, if after
2 reasonable notice and opportunity for a hearing the
3 Illinois Department finds that:

4 (1) the alternate payee is not complying with the
5 Department's policy or rules and regulations, or with
6 the terms and conditions prescribed by the Illinois
7 Department in its alternate payee registration
8 agreement; or

9 (2) the alternate payee has failed to keep or make
10 available for inspection, audit, or copying, after
11 receiving a written request from the Illinois
12 Department, such records regarding payments claimed as
13 an alternate payee; or

14 (3) the alternate payee has failed to furnish any
15 information requested by the Illinois Department
16 regarding payments claimed as an alternate payee; or

17 (4) the alternate payee has knowingly made, or
18 caused to be made, any false statement or
19 representation of a material fact in connection with
20 the administration of the Illinois Medical Assistance
21 Program; or

22 (5) the alternate payee, a person with management
23 responsibility for an alternate payee, an officer or
24 person owning, either directly or indirectly, 5% or
25 more of the shares of stock or other evidences of
26 ownership in a corporate alternate payee, or a partner

1 in a partnership which is an alternate payee:

2 (a) was previously terminated, suspended, or
3 excluded from participation as a vendor in the
4 Illinois Medical Assistance Program, or was
5 previously revoked as an alternate payee in the
6 Illinois Medical Assistance Program, or was
7 terminated, suspended, or excluded from
8 participation as a vendor in a medical assistance
9 program in another state that is of the same kind
10 as the program of medical assistance provided
11 under Article V of this Code; or

12 (b) was a person with management
13 responsibility for a vendor previously terminated,
14 suspended, or excluded from participation as a
15 vendor in the Illinois Medical Assistance Program,
16 or was previously revoked as an alternate payee in
17 the Illinois Medical Assistance Program, or was
18 terminated, suspended, or excluded from
19 participation as a vendor in a medical assistance
20 program in another state that is of the same kind
21 as the program of medical assistance provided
22 under Article V of this Code, during the time of
23 conduct which was the basis for that vendor's
24 termination, suspension, or exclusion or alternate
25 payee's revocation; or

26 (c) was an officer, or person owning, either

1 directly or indirectly, 5% or more of the shares of
2 stock or other evidences of ownership in a
3 corporate vendor previously terminated, suspended,
4 or excluded from participation as a vendor in the
5 Illinois Medical Assistance Program, or was
6 previously revoked as an alternate payee in the
7 Illinois Medical Assistance Program, or was
8 terminated, suspended, or excluded from
9 participation as a vendor in a medical assistance
10 program in another state that is of the same kind
11 as the program of medical assistance provided
12 under Article V of this Code, during the time of
13 conduct which was the basis for that vendor's
14 termination, suspension, or exclusion; or

15 (d) was an owner of a sole proprietorship or
16 partner in a partnership previously terminated,
17 suspended, or excluded from participation as a
18 vendor in the Illinois Medical Assistance Program,
19 or was previously revoked as an alternate payee in
20 the Illinois Medical Assistance Program, or was
21 terminated, suspended, or excluded from
22 participation as a vendor in a medical assistance
23 program in another state that is of the same kind
24 as the program of medical assistance provided
25 under Article V of this Code, during the time of
26 conduct which was the basis for that vendor's

1 termination, suspension, or exclusion or alternate
2 payee's revocation; or

3 (6) the alternate payee, a person with management
4 responsibility for an alternate payee, an officer or
5 person owning, either directly or indirectly, 5% or
6 more of the shares of stock or other evidences of
7 ownership in a corporate alternate payee, or a partner
8 in a partnership which is an alternate payee:

9 (a) has engaged in conduct prohibited by
10 applicable federal or State law or regulation
11 relating to the Illinois Medical Assistance
12 Program; or

13 (b) was a person with management
14 responsibility for a vendor or alternate payee at
15 the time that the vendor or alternate payee engaged
16 in practices prohibited by applicable federal or
17 State law or regulation relating to the Illinois
18 Medical Assistance Program; or

19 (c) was an officer, or person owning, either
20 directly or indirectly, 5% or more of the shares of
21 stock or other evidences of ownership in a vendor
22 or alternate payee at the time such vendor or
23 alternate payee engaged in practices prohibited by
24 applicable federal or State law or regulation
25 relating to the Illinois Medical Assistance
26 Program; or

1 (d) was an owner of a sole proprietorship or
2 partner in a partnership which was a vendor or
3 alternate payee at the time such vendor or
4 alternate payee engaged in practices prohibited by
5 applicable federal or State law or regulation
6 relating to the Illinois Medical Assistance
7 Program; or

8 (7) the direct or indirect ownership of the vendor
9 or alternate payee (including the ownership of a vendor
10 or alternate payee that is a partner's interest in a
11 vendor or alternate payee, or ownership of 5% or more
12 of the shares of stock or other evidences of ownership
13 in a corporate vendor or alternate payee) has been
14 transferred by an individual who is terminated,
15 suspended, or excluded or barred from participating as
16 a vendor or is prohibited or revoked as an alternate
17 payee to the individual's spouse, child, brother,
18 sister, parent, grandparent, grandchild, uncle, aunt,
19 niece, nephew, cousin, or relative by marriage.

20 (K) The Illinois Department of Healthcare and Family
21 Services may withhold payments, in whole or in part, to a
22 provider or alternate payee where there is credible evidence,
23 received from State or federal law enforcement or federal
24 oversight agencies or from the results of a preliminary
25 Department audit, that the circumstances giving rise to the
26 need for a withholding of payments may involve fraud or willful

1 misrepresentation under the Illinois Medical Assistance
2 program. The Department shall by rule define what constitutes
3 "credible" evidence for purposes of this subsection. The
4 Department may withhold payments without first notifying the
5 provider or alternate payee of its intention to withhold such
6 payments. A provider or alternate payee may request a
7 reconsideration of payment withholding, and the Department
8 must grant such a request. The Department shall state by rule a
9 process and criteria by which a provider or alternate payee may
10 request full or partial release of payments withheld under this
11 subsection. This request may be made at any time after the
12 Department first withholds such payments.

13 (a) The Illinois Department must send notice of its
14 withholding of program payments within 5 days of taking
15 such action. The notice must set forth the general
16 allegations as to the nature of the withholding action, but
17 need not disclose any specific information concerning its
18 ongoing investigation. The notice must do all of the
19 following:

20 (1) State that payments are being withheld in
21 accordance with this subsection.

22 (2) State that the withholding is for a temporary
23 period, as stated in paragraph (b) of this subsection,
24 and cite the circumstances under which withholding
25 will be terminated.

26 (3) Specify, when appropriate, which type or types

1 of Medicaid claims withholding is effective.

2 (4) Inform the provider or alternate payee of the
3 right to submit written evidence for reconsideration
4 of the withholding by the Illinois Department.

5 (5) Inform the provider or alternate payee that a
6 written request may be made to the Illinois Department
7 for full or partial release of withheld payments and
8 that such requests may be made at any time after the
9 Department first withholds such payments.

10 (b) All withholding-of-payment actions under this
11 subsection shall be temporary and shall not continue after
12 any of the following:

13 (1) The Illinois Department or the prosecuting
14 authorities determine that there is insufficient
15 evidence of fraud or willful misrepresentation by the
16 provider or alternate payee.

17 (2) Legal proceedings related to the provider's or
18 alternate payee's alleged fraud, willful
19 misrepresentation, violations of this Act, or
20 violations of the Illinois Department's administrative
21 rules are completed.

22 (3) The withholding of payments for a period of 3
23 years.

24 (c) The Illinois Department may adopt all rules
25 necessary to implement this subsection (K).

26 (K-5) The Illinois Department may withhold payments, in

1 whole or in part, to a provider or alternate payee upon
2 initiation of an audit, quality of care review, investigation
3 when there is a credible allegation of fraud, or the provider
4 or alternate payee demonstrating a clear failure to cooperate
5 with the Illinois Department such that the circumstances give
6 rise to the need for a withholding of payments. As used in this
7 subsection, "credible allegation" is defined to include an
8 allegation from any source, including, but not limited to,
9 fraud hotline complaints, claims data mining, patterns
10 identified through provider audits, civil actions filed under
11 the Illinois False Claims Act, and law enforcement
12 investigations. An allegation is considered to be credible when
13 it has indicia of reliability. The Illinois Department may
14 withhold payments without first notifying the provider or
15 alternate payee of its intention to withhold such payments. A
16 provider or alternate payee may request a hearing or a
17 reconsideration of payment withholding, and the Illinois
18 Department must grant such a request. The Illinois Department
19 shall state by rule a process and criteria by which a provider
20 or alternate payee may request a hearing or a reconsideration
21 for the full or partial release of payments withheld under this
22 subsection. This request may be made at any time after the
23 Illinois Department first withholds such payments.

24 (a) The Illinois Department must send notice of its
25 withholding of program payments within 5 days of taking
26 such action. The notice must set forth the general

1 allegations as to the nature of the withholding action but
2 need not disclose any specific information concerning its
3 ongoing investigation. The notice must do all of the
4 following:

5 (1) State that payments are being withheld in
6 accordance with this subsection.

7 (2) State that the withholding is for a temporary
8 period, as stated in paragraph (b) of this subsection,
9 and cite the circumstances under which withholding
10 will be terminated.

11 (3) Specify, when appropriate, which type or types
12 of claims are withheld.

13 (4) Inform the provider or alternate payee of the
14 right to request a hearing or a reconsideration of the
15 withholding by the Illinois Department, including the
16 ability to submit written evidence.

17 (5) Inform the provider or alternate payee that a
18 written request may be made to the Illinois Department
19 for a hearing or a reconsideration for the full or
20 partial release of withheld payments and that such
21 requests may be made at any time after the Illinois
22 Department first withholds such payments.

23 (b) All withholding of payment actions under this
24 subsection shall be temporary and shall not continue after
25 any of the following:

26 (1) The Illinois Department determines that there

1 is insufficient evidence of fraud, or the provider or
2 alternate payee demonstrates clear cooperation with
3 the Illinois Department, as determined by the Illinois
4 Department, such that the circumstances do not give
5 rise to the need for withholding of payments; or

6 (2) The withholding of payments has lasted for a
7 period in excess of 3 years.

8 (c) The Illinois Department may adopt all rules
9 necessary to implement this subsection (K-5).

10 (L) The Illinois Department shall establish a protocol to
11 enable health care providers to disclose an actual or potential
12 violation of this Section pursuant to a self-referral
13 disclosure protocol, referred to in this subsection as "the
14 protocol". The protocol shall include direction for health care
15 providers on a specific person, official, or office to whom
16 such disclosures shall be made. The Illinois Department shall
17 post information on the protocol on the Illinois Department's
18 public website. The Illinois Department may adopt rules
19 necessary to implement this subsection (L). In addition to
20 other factors that the Illinois Department finds appropriate,
21 the Illinois Department may consider a health care provider's
22 timely use or failure to use the protocol in considering the
23 provider's failure to comply with this Code.

24 (M) Notwithstanding any other provision of this Code, the
25 Illinois Department, at its discretion, may exempt an entity
26 licensed under the Nursing Home Care Act, ~~and~~ the ID/DD

1 Community Care Act, or the MC/DD Act from the provisions of
2 subsections (A-15), (B), and (C) of this Section if the
3 licensed entity is in receivership.

4 (Source: P.A. 97-689, eff. 6-14-12; 97-1150, eff. 1-25-13;
5 98-214, eff. 8-9-13; 98-550, eff. 8-27-13; 98-756, eff.
6 7-16-14.)

7 Section 175. The Nursing Home Grant Assistance Act is
8 amended by changing Section 5 as follows:

9 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

10 Sec. 5. Definitions. As used in this Act, unless the
11 context requires otherwise:

12 "Applicant" means an eligible individual who makes a
13 payment of at least \$1 in a quarter to a nursing home.

14 "Application" means the receipt by a nursing home of at
15 least \$1 from an eligible individual that is a resident of the
16 home.

17 "Department" means the Department of Revenue.

18 "Director" means the Director of the Department of Revenue.

19 "Distribution agent" means a nursing home that is residence
20 to one or more eligible individuals, which receives an
21 application from one or more applicants for participation in
22 the Nursing Home Grant Assistance Program provided for by this
23 Act, and is thereby designated as distributing agent by such
24 applicant or applicants, and which is thereby authorized by

1 virtue of its license to receive from the Department and
2 distribute to eligible individuals residing in the nursing home
3 Nursing Home Grant Assistance payments under this Act.

4 "Qualified distribution agent" means a distribution agent
5 that the Department of Public Health has certified to the
6 Department of Revenue to be a licensed nursing home in good
7 standing.

8 "Eligible individual" means an individual eligible for a
9 nursing home grant assistance payment because he or she meets
10 each of the following requirements:

11 (1) The individual resides, after June 30, 1992, in a
12 nursing home as defined in this Act.

13 (2) For each day for which nursing home grant
14 assistance is sought, the individual's nursing home care
15 was not paid for, in whole or in part, by a federal, State,
16 or combined federal-State medical care program; the
17 receipt of Medicare Part B benefits does not make a person
18 ineligible for nursing home grant assistance.

19 (3) The individual's annual adjusted gross income,
20 after payment of any expenses for nursing home care, does
21 not exceed 250% of the federal poverty guidelines for an
22 individual as published annually by the U.S. Department of
23 Health and Human Services for purposes of determining
24 Medicaid eligibility.

25 "Fund" means the Nursing Home Grant Assistance Fund.

26 "Nursing home" means a skilled nursing or intermediate long

1 term care facility that is subject to licensure by the Illinois
2 Department of Public Health under the Nursing Home Care Act, ~~or~~
3 the ID/DD Community Care Act, or the MC/DD Act.

4 "Occupied bed days" means the sum for all beds of the
5 number of days during a quarter for which grant assistance is
6 sought under this Act on which a bed is occupied by an
7 individual.

8 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

9 Section 180. The Adult Protective Services Act is amended
10 by changing Section 2 as follows:

11 (320 ILCS 20/2) (from Ch. 23, par. 6602)

12 Sec. 2. Definitions. As used in this Act, unless the
13 context requires otherwise:

14 (a) "Abuse" means causing any physical, mental or sexual
15 injury to an eligible adult, including exploitation of such
16 adult's financial resources.

17 Nothing in this Act shall be construed to mean that an
18 eligible adult is a victim of abuse, neglect, or self-neglect
19 for the sole reason that he or she is being furnished with or
20 relies upon treatment by spiritual means through prayer alone,
21 in accordance with the tenets and practices of a recognized
22 church or religious denomination.

23 Nothing in this Act shall be construed to mean that an
24 eligible adult is a victim of abuse because of health care

1 services provided or not provided by licensed health care
2 professionals.

3 (a-5) "Abuser" means a person who abuses, neglects, or
4 financially exploits an eligible adult.

5 (a-6) "Adult with disabilities" means a person aged 18
6 through 59 who resides in a domestic living situation and whose
7 disability as defined in subsection (c-5) impairs his or her
8 ability to seek or obtain protection from abuse, neglect, or
9 exploitation.

10 (a-7) "Caregiver" means a person who either as a result of
11 a family relationship, voluntarily, or in exchange for
12 compensation has assumed responsibility for all or a portion of
13 the care of an eligible adult who needs assistance with
14 activities of daily living or instrumental activities of daily
15 living.

16 (b) "Department" means the Department on Aging of the State
17 of Illinois.

18 (c) "Director" means the Director of the Department.

19 (c-5) "Disability" means a physical or mental disability,
20 including, but not limited to, a developmental disability, an
21 intellectual disability, a mental illness as defined under the
22 Mental Health and Developmental Disabilities Code, or dementia
23 as defined under the Alzheimer's Disease Assistance Act.

24 (d) "Domestic living situation" means a residence where the
25 eligible adult at the time of the report lives alone or with
26 his or her family or a caregiver, or others, or other

1 community-based unlicensed facility, but is not:

2 (1) A licensed facility as defined in Section 1-113 of
3 the Nursing Home Care Act;

4 (1.5) A facility licensed under the ID/DD Community
5 Care Act;

6 (1.6) A facility licensed under the MC/DD Act;

7 (1.7) A facility licensed under the Specialized Mental
8 Health Rehabilitation Act of 2013;

9 (2) A "life care facility" as defined in the Life Care
10 Facilities Act;

11 (3) A home, institution, or other place operated by the
12 federal government or agency thereof or by the State of
13 Illinois;

14 (4) A hospital, sanitarium, or other institution, the
15 principal activity or business of which is the diagnosis,
16 care, and treatment of human illness through the
17 maintenance and operation of organized facilities
18 therefor, which is required to be licensed under the
19 Hospital Licensing Act;

20 (5) A "community living facility" as defined in the
21 Community Living Facilities Licensing Act;

22 (6) (Blank);

23 (7) A "community-integrated living arrangement" as
24 defined in the Community-Integrated Living Arrangements
25 Licensure and Certification Act or a "community
26 residential alternative" as licensed under that Act;

1 (8) An assisted living or shared housing establishment
2 as defined in the Assisted Living and Shared Housing Act;
3 or

4 (9) A supportive living facility as described in
5 Section 5-5.01a of the Illinois Public Aid Code.

6 (e) "Eligible adult" means either an adult with
7 disabilities aged 18 through 59 or a person aged 60 or older
8 who resides in a domestic living situation and is, or is
9 alleged to be, abused, neglected, or financially exploited by
10 another individual or who neglects himself or herself.

11 (f) "Emergency" means a situation in which an eligible
12 adult is living in conditions presenting a risk of death or
13 physical, mental or sexual injury and the provider agency has
14 reason to believe the eligible adult is unable to consent to
15 services which would alleviate that risk.

16 (f-1) "Financial exploitation" means the use of an eligible
17 adult's resources by another to the disadvantage of that adult
18 or the profit or advantage of a person other than that adult.

19 (f-5) "Mandated reporter" means any of the following
20 persons while engaged in carrying out their professional
21 duties:

22 (1) a professional or professional's delegate while
23 engaged in: (i) social services, (ii) law enforcement,
24 (iii) education, (iv) the care of an eligible adult or
25 eligible adults, or (v) any of the occupations required to
26 be licensed under the Clinical Psychologist Licensing Act,

1 the Clinical Social Work and Social Work Practice Act, the
2 Illinois Dental Practice Act, the Dietitian Nutritionist
3 Practice Act, the Marriage and Family Therapy Licensing
4 Act, the Medical Practice Act of 1987, the Naprapathic
5 Practice Act, the Nurse Practice Act, the Nursing Home
6 Administrators Licensing and Disciplinary Act, the
7 Illinois Occupational Therapy Practice Act, the Illinois
8 Optometric Practice Act of 1987, the Pharmacy Practice Act,
9 the Illinois Physical Therapy Act, the Physician Assistant
10 Practice Act of 1987, the Podiatric Medical Practice Act of
11 1987, the Respiratory Care Practice Act, the Professional
12 Counselor and Clinical Professional Counselor Licensing
13 and Practice Act, the Illinois Speech-Language Pathology
14 and Audiology Practice Act, the Veterinary Medicine and
15 Surgery Practice Act of 2004, and the Illinois Public
16 Accounting Act;

17 (1.5) an employee of an entity providing developmental
18 disabilities services or service coordination funded by
19 the Department of Human Services;

20 (2) an employee of a vocational rehabilitation
21 facility prescribed or supervised by the Department of
22 Human Services;

23 (3) an administrator, employee, or person providing
24 services in or through an unlicensed community based
25 facility;

26 (4) any religious practitioner who provides treatment

1 by prayer or spiritual means alone in accordance with the
2 tenets and practices of a recognized church or religious
3 denomination, except as to information received in any
4 confession or sacred communication enjoined by the
5 discipline of the religious denomination to be held
6 confidential;

7 (5) field personnel of the Department of Healthcare and
8 Family Services, Department of Public Health, and
9 Department of Human Services, and any county or municipal
10 health department;

11 (6) personnel of the Department of Human Services, the
12 Guardianship and Advocacy Commission, the State Fire
13 Marshal, local fire departments, the Department on Aging
14 and its subsidiary Area Agencies on Aging and provider
15 agencies, and the Office of State Long Term Care Ombudsman;

16 (7) any employee of the State of Illinois not otherwise
17 specified herein who is involved in providing services to
18 eligible adults, including professionals providing medical
19 or rehabilitation services and all other persons having
20 direct contact with eligible adults;

21 (8) a person who performs the duties of a coroner or
22 medical examiner; or

23 (9) a person who performs the duties of a paramedic or
24 an emergency medical technician.

25 (g) "Neglect" means another individual's failure to
26 provide an eligible adult with or willful withholding from an

1 eligible adult the necessities of life including, but not
2 limited to, food, clothing, shelter or health care. This
3 subsection does not create any new affirmative duty to provide
4 support to eligible adults. Nothing in this Act shall be
5 construed to mean that an eligible adult is a victim of neglect
6 because of health care services provided or not provided by
7 licensed health care professionals.

8 (h) "Provider agency" means any public or nonprofit agency
9 in a planning and service area that is selected by the
10 Department or appointed by the regional administrative agency
11 with prior approval by the Department on Aging to receive and
12 assess reports of alleged or suspected abuse, neglect, or
13 financial exploitation. A provider agency is also referenced as
14 a "designated agency" in this Act.

15 (i) "Regional administrative agency" means any public or
16 nonprofit agency in a planning and service area that provides
17 regional oversight and performs functions as set forth in
18 subsection (b) of Section 3 of this Act. The Department shall
19 designate an Area Agency on Aging as the regional
20 administrative agency or, in the event the Area Agency on Aging
21 in that planning and service area is deemed by the Department
22 to be unwilling or unable to provide those functions, the
23 Department may serve as the regional administrative agency or
24 designate another qualified entity to serve as the regional
25 administrative agency; any such designation shall be subject to
26 terms set forth by the Department.

1 (i-5) "Self-neglect" means a condition that is the result
2 of an eligible adult's inability, due to physical or mental
3 impairments, or both, or a diminished capacity, to perform
4 essential self-care tasks that substantially threaten his or
5 her own health, including: providing essential food, clothing,
6 shelter, and health care; and obtaining goods and services
7 necessary to maintain physical health, mental health,
8 emotional well-being, and general safety. The term includes
9 compulsive hoarding, which is characterized by the acquisition
10 and retention of large quantities of items and materials that
11 produce an extensively cluttered living space, which
12 significantly impairs the performance of essential self-care
13 tasks or otherwise substantially threatens life or safety.

14 (j) "Substantiated case" means a reported case of alleged
15 or suspected abuse, neglect, financial exploitation, or
16 self-neglect in which a provider agency, after assessment,
17 determines that there is reason to believe abuse, neglect, or
18 financial exploitation has occurred.

19 (k) "Verified" means a determination that there is "clear
20 and convincing evidence" that the specific injury or harm
21 alleged was the result of abuse, neglect, or financial
22 exploitation.

23 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-300,
24 eff. 8-11-11; 97-706, eff. 6-25-12; 97-813, eff. 7-13-12;
25 97-1141, eff. 12-28-12; 98-49, eff. 7-1-13; 98-104, eff.
26 7-22-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14.)

1 Section 185. The Older Adult Services Act is amended by
2 changing Section 10 as follows:

3 (320 ILCS 42/10)

4 Sec. 10. Definitions. In this Act:

5 "Advisory Committee" means the Older Adult Services
6 Advisory Committee.

7 "Certified nursing home" means any nursing home licensed
8 under the Nursing Home Care Act, ~~or~~ the ID/DD Community Care
9 Act, or the MC/DD Act and certified under Title XIX of the
10 Social Security Act to participate as a vendor in the medical
11 assistance program under Article V of the Illinois Public Aid
12 Code.

13 "Comprehensive case management" means the assessment of
14 needs and preferences of an older adult at the direction of the
15 older adult or the older adult's designated representative and
16 the arrangement, coordination, and monitoring of an optimum
17 package of services to meet the needs of the older adult.

18 "Consumer-directed" means decisions made by an informed
19 older adult from available services and care options, which may
20 range from independently making all decisions and managing
21 services directly to limited participation in decision-making,
22 based upon the functional and cognitive level of the older
23 adult.

24 "Coordinated point of entry" means an integrated access

1 point where consumers receive information and assistance,
2 assessment of needs, care planning, referral, assistance in
3 completing applications, authorization of services where
4 permitted, and follow-up to ensure that referrals and services
5 are accessed.

6 "Department" means the Department on Aging, in
7 collaboration with the departments of Public Health and
8 Healthcare and Family Services and other relevant agencies and
9 in consultation with the Advisory Committee, except as
10 otherwise provided.

11 "Departments" means the Department on Aging, the
12 departments of Public Health and Healthcare and Family
13 Services, and other relevant agencies in collaboration with
14 each other and in consultation with the Advisory Committee,
15 except as otherwise provided.

16 "Family caregiver" means an adult family member or another
17 individual who is an uncompensated provider of home-based or
18 community-based care to an older adult.

19 "Health services" means activities that promote, maintain,
20 improve, or restore mental or physical health or that are
21 palliative in nature.

22 "Older adult" means a person age 60 or older and, if
23 appropriate, the person's family caregiver.

24 "Person-centered" means a process that builds upon an older
25 adult's strengths and capacities to engage in activities that
26 promote community life and that reflect the older adult's

1 preferences, choices, and abilities, to the extent
2 practicable.

3 "Priority service area" means an area identified by the
4 Departments as being less-served with respect to the
5 availability of and access to older adult services in Illinois.
6 The Departments shall determine by rule the criteria and
7 standards used to designate such areas.

8 "Priority service plan" means the plan developed pursuant
9 to Section 25 of this Act.

10 "Provider" means any supplier of services under this Act.

11 "Residential setting" means the place where an older adult
12 lives.

13 "Restructuring" means the transformation of Illinois'
14 comprehensive system of older adult services from funding
15 primarily a facility-based service delivery system to
16 primarily a home-based and community-based system, taking into
17 account the continuing need for 24-hour skilled nursing care
18 and congregate housing with services.

19 "Services" means the range of housing, health, financial,
20 and supportive services, other than acute health care services,
21 that are delivered to an older adult with functional or
22 cognitive limitations, or socialization needs, who requires
23 assistance to perform activities of daily living, regardless of
24 the residential setting in which the services are delivered.

25 "Supportive services" means non-medical assistance given
26 over a period of time to an older adult that is needed to

1 compensate for the older adult's functional or cognitive
2 limitations, or socialization needs, or those services
3 designed to restore, improve, or maintain the older adult's
4 functional or cognitive abilities.

5 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

6 Section 190. The Mental Health and Developmental
7 Disabilities Code is amended by changing Section 2-107 as
8 follows:

9 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

10 Sec. 2-107. Refusal of services; informing of risks.

11 (a) An adult recipient of services or the recipient's
12 guardian, if the recipient is under guardianship, and the
13 recipient's substitute decision maker, if any, must be informed
14 of the recipient's right to refuse medication or
15 electroconvulsive therapy. The recipient and the recipient's
16 guardian or substitute decision maker shall be given the
17 opportunity to refuse generally accepted mental health or
18 developmental disability services, including but not limited
19 to medication or electroconvulsive therapy. If such services
20 are refused, they shall not be given unless such services are
21 necessary to prevent the recipient from causing serious and
22 imminent physical harm to the recipient or others and no less
23 restrictive alternative is available. The facility director
24 shall inform a recipient, guardian, or substitute decision

1 maker, if any, who refuses such services of alternate services
2 available and the risks of such alternate services, as well as
3 the possible consequences to the recipient of refusal of such
4 services.

5 (b) Psychotropic medication or electroconvulsive therapy
6 may be administered under this Section for up to 24 hours only
7 if the circumstances leading up to the need for emergency
8 treatment are set forth in writing in the recipient's record.

9 (c) Administration of medication or electroconvulsive
10 therapy may not be continued unless the need for such treatment
11 is redetermined at least every 24 hours based upon a personal
12 examination of the recipient by a physician or a nurse under
13 the supervision of a physician and the circumstances
14 demonstrating that need are set forth in writing in the
15 recipient's record.

16 (d) Neither psychotropic medication nor electroconvulsive
17 therapy may be administered under this Section for a period in
18 excess of 72 hours, excluding Saturdays, Sundays, and holidays,
19 unless a petition is filed under Section 2-107.1 and the
20 treatment continues to be necessary under subsection (a) of
21 this Section. Once the petition has been filed, treatment may
22 continue in compliance with subsections (a), (b), and (c) of
23 this Section until the final outcome of the hearing on the
24 petition.

25 (e) The Department shall issue rules designed to insure
26 that in State-operated mental health facilities psychotropic

1 medication and electroconvulsive therapy are administered in
2 accordance with this Section and only when appropriately
3 authorized and monitored by a physician or a nurse under the
4 supervision of a physician in accordance with accepted medical
5 practice. The facility director of each mental health facility
6 not operated by the State shall issue rules designed to insure
7 that in that facility psychotropic medication and
8 electroconvulsive therapy are administered in accordance with
9 this Section and only when appropriately authorized and
10 monitored by a physician or a nurse under the supervision of a
11 physician in accordance with accepted medical practice. Such
12 rules shall be available for public inspection and copying
13 during normal business hours.

14 (f) The provisions of this Section with respect to the
15 emergency administration of psychotropic medication and
16 electroconvulsive therapy do not apply to facilities licensed
17 under the Nursing Home Care Act, the Specialized Mental Health
18 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care Act, or
19 the MC/DD Act.

20 (g) Under no circumstances may long-acting psychotropic
21 medications be administered under this Section.

22 (h) Whenever psychotropic medication or electroconvulsive
23 therapy is refused pursuant to subsection (a) of this Section
24 at least once that day, the physician shall determine and state
25 in writing the reasons why the recipient did not meet the
26 criteria for administration of medication or electroconvulsive

1 therapy under subsection (a) and whether the recipient meets
2 the standard for administration of psychotropic medication or
3 electroconvulsive therapy under Section 2-107.1 of this Code.
4 If the physician determines that the recipient meets the
5 standard for administration of psychotropic medication or
6 electroconvulsive therapy under Section 2-107.1, the facility
7 director or his or her designee shall petition the court for
8 administration of psychotropic medication or electroconvulsive
9 therapy pursuant to that Section unless the facility director
10 or his or her designee states in writing in the recipient's
11 record why the filing of such a petition is not warranted. This
12 subsection (h) applies only to State-operated mental health
13 facilities.

14 (i) The Department shall conduct annual trainings for all
15 physicians and registered nurses working in State-operated
16 mental health facilities on the appropriate use of emergency
17 administration of psychotropic medication and
18 electroconvulsive therapy, standards for their use, and the
19 methods of authorization under this Section.

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 98-104, eff. 7-22-13.)

22 Section 195. The Protection and Advocacy for
23 Developmentally Disabled Persons Act is amended by changing
24 Section 1 as follows:

1 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

2 Sec. 1. The Governor may designate a private not-for-profit
3 corporation as the agency to administer a State plan to protect
4 and advocate the rights of persons with developmental
5 disabilities pursuant to the requirements of the federal
6 Developmental Disabilities Assistance and Bill of Rights Act,
7 42 U.S.C. 6001 to 6081, as now or hereafter amended. The
8 designated agency may pursue legal, administrative, and other
9 appropriate remedies to ensure the protection of the rights of
10 such persons who are receiving treatment, services or
11 habilitation within this State. The agency designated by the
12 Governor shall be independent of any agency which provides
13 treatment, services, guardianship, or habilitation to persons
14 with developmental disabilities, and such agency shall not be
15 administered by the Governor's Planning Council on
16 Developmental Disabilities or any successor State Planning
17 Council organized pursuant to federal law.

18 The designated agency may receive and expend funds to
19 protect and advocate the rights of persons with developmental
20 disabilities. In order to properly exercise its powers and
21 duties, such agency shall have access to developmental
22 disability facilities and mental health facilities, as defined
23 under Sections 1-107 and 1-114 of the Mental Health and
24 Developmental Disabilities Code, and facilities as defined in
25 Section 1-113 of the Nursing Home Care Act, ~~or~~ Section 1-113 of
26 the ID/DD Community Care Act, or Section 1-113 of the MC/DD

1 Act. Such access shall be granted for the purposes of meeting
2 with residents and staff, informing them of services available
3 from the agency, distributing written information about the
4 agency and the rights of persons with developmental
5 disabilities, conducting scheduled and unscheduled visits, and
6 performing other activities designed to protect the rights of
7 persons with developmental disabilities. The agency also shall
8 have access, for the purpose of inspection and copying, to the
9 records of a person with developmental disabilities who resides
10 in any such facility subject to the limitations of this Act,
11 the Mental Health and Developmental Disabilities
12 Confidentiality Act, the Nursing Home Care Act, ~~and~~ the ID/DD
13 Community Care Act, and the MC/DD Act. The agency also shall
14 have access, for the purpose of inspection and copying, to the
15 records of a person with developmental disabilities who resides
16 in any such facility if (1) a complaint is received by the
17 agency from or on behalf of the person with a developmental
18 disability, and (2) such person does not have a legal guardian
19 or the State or the designee of the State is the legal guardian
20 of such person. The designated agency shall provide written
21 notice to the person with developmental disabilities and the
22 State guardian of the nature of the complaint based upon which
23 the designated agency has gained access to the records. No
24 record or the contents of any record shall be redisclosed by
25 the designated agency unless the person with developmental
26 disabilities and the State guardian are provided 7 days advance

1 written notice, except in emergency situations, of the
2 designated agency's intent to redisclose such record, during
3 which time the person with developmental disabilities or the
4 State guardian may seek to judicially enjoin the designated
5 agency's redisclosure of such record on the grounds that such
6 redisclosure is contrary to the interests of the person with
7 developmental disabilities. Any person who in good faith
8 complains to the designated agency on behalf of a person with
9 developmental disabilities, or provides information or
10 participates in the investigation of any such complaint shall
11 have immunity from any liability, civil, criminal or otherwise,
12 and shall not be subject to any penalties, sanctions,
13 restrictions or retaliation as a consequence of making such
14 complaint, providing such information or participating in such
15 investigation.

16 Upon request, the designated agency shall be entitled to
17 inspect and copy any records or other materials which may
18 further the agency's investigation of problems affecting
19 numbers of persons with developmental disabilities. When
20 required by law any personally identifiable information of
21 persons with developmental disabilities shall be removed from
22 the records. However, the designated agency may not inspect or
23 copy any records or other materials when the removal of
24 personally identifiable information imposes an unreasonable
25 burden on mental health and developmental disabilities
26 facilities pursuant to the Mental Health and Developmental

1 Disabilities Code or facilities as defined in the Nursing Home
2 Care Act, ~~or~~ the ID/DD Community Care Act, or the MC/DD Act.

3 The Governor shall not redesignate the agency to administer
4 the State plan to protect and advocate the rights of persons
5 with developmental disabilities unless there is good cause for
6 the redesignation and unless notice of the intent to make such
7 redesignation is given to persons with developmental
8 disabilities or their representatives, the federal Secretary
9 of Health and Human Services, and the General Assembly at least
10 60 days prior thereto.

11 As used in this Act, the term "developmental disability"
12 means a severe, chronic disability of a person which:

13 (A) is attributable to a mental or physical impairment
14 or combination of mental and physical impairments;

15 (B) is manifested before the person attains age 22;

16 (C) is likely to continue indefinitely;

17 (D) results in substantial functional limitations in 3
18 or more of the following areas of major life activity: (i)
19 self-care, (ii) receptive and expressive language, (iii)
20 learning, (iv) mobility, (v) self-direction, (vi) capacity
21 for independent living, and (vii) economic
22 self-sufficiency; and

23 (E) reflects the person's need for combination and
24 sequence of special, interdisciplinary or generic care,
25 treatment or other services which are of lifelong or
26 extended duration and are individually planned and

1 coordinated.

2 (Source: P.A. 96-339, eff. 7-1-10; 97-227, eff. 1-1-12.)

3 Section 200. The Protection and Advocacy for Mentally Ill
4 Persons Act is amended by changing Section 3 as follows:

5 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

6 Sec. 3. Powers and Duties.

7 (A) In order to properly exercise its powers and duties,
8 the agency shall have the authority to:

9 (1) Investigate incidents of abuse and neglect of
10 mentally ill persons if the incidents are reported to the
11 agency or if there is probable cause to believe that the
12 incidents occurred. In case of conflict with provisions of
13 the Abused and Neglected Child Reporting Act or the Nursing
14 Home Care Act, the provisions of those Acts shall apply.

15 (2) Pursue administrative, legal and other appropriate
16 remedies to ensure the protection of the rights of mentally
17 ill persons who are receiving care and treatment in this
18 State.

19 (3) Pursue administrative, legal and other remedies on
20 behalf of an individual who:

21 (a) was a mentally ill individual; and

22 (b) is a resident of this State, but only with
23 respect to matters which occur within 90 days after the
24 date of the discharge of such individual from a

1 facility providing care and treatment.

2 (4) Establish a board which shall:

3 (a) advise the protection and advocacy system on
4 policies and priorities to be carried out in protecting
5 and advocating the rights of mentally ill individuals;
6 and

7 (b) include attorneys, mental health
8 professionals, individuals from the public who are
9 knowledgeable about mental illness, a provider of
10 mental health services, individuals who have received
11 or are receiving mental health services and family
12 members of such individuals. At least one-half the
13 members of the board shall be individuals who have
14 received or are receiving mental health services or who
15 are family members of such individuals.

16 (5) On January 1, 1988, and on January 1 of each
17 succeeding year, prepare and transmit to the Secretary of
18 the United States Department of Health and Human Services
19 and to the Illinois Secretary of Human Services a report
20 describing the activities, accomplishments and
21 expenditures of the protection and advocacy system during
22 the most recently completed fiscal year.

23 (B) The agency shall have access to all mental health
24 facilities as defined in Sections 1-107 and 1-114 of the Mental
25 Health and Developmental Disabilities Code, all facilities as
26 defined in Section 1-113 of the Nursing Home Care Act, all

1 facilities as defined in Section 1-102 of the Specialized
2 Mental Health Rehabilitation Act of 2013, all facilities as
3 defined in Section 1-113 of the ID/DD Community Care Act, all
4 facilities as defined in Section 1-113 of the MC/DD Act, all
5 facilities as defined in Section 2.06 of the Child Care Act of
6 1969, as now or hereafter amended, and all other facilities
7 providing care or treatment to mentally ill persons. Such
8 access shall be granted for the purposes of meeting with
9 residents and staff, informing them of services available from
10 the agency, distributing written information about the agency
11 and the rights of persons who are mentally ill, conducting
12 scheduled and unscheduled visits, and performing other
13 activities designed to protect the rights of mentally ill
14 persons.

15 (C) The agency shall have access to all records of mentally
16 ill persons who are receiving care or treatment from a
17 facility, subject to the limitations of this Act, the Mental
18 Health and Developmental Disabilities Confidentiality Act, the
19 Nursing Home Care Act and the Child Care Act of 1969, as now or
20 hereafter amended. If the mentally ill person has a legal
21 guardian other than the State or a designee of the State, the
22 facility director shall disclose the guardian's name, address
23 and telephone number to the agency upon its request. In cases
24 of conflict with provisions of the Abused and Neglected Child
25 Reporting Act and the Nursing Home Care Act, the provisions of
26 the Abused and Neglected Child Reporting Act and the Nursing

1 Home Care Act shall apply. The agency shall also have access,
2 for the purpose of inspection and copying, to the records of a
3 mentally ill person (i) who by reason of his or her mental or
4 physical condition is unable to authorize the agency to have
5 such access; (ii) who does not have a legal guardian or for
6 whom the State or a designee of the State is the legal
7 guardian; and (iii) with respect to whom a complaint has been
8 received by the agency or with respect to whom there is
9 probable cause to believe that such person has been subjected
10 to abuse or neglect.

11 The agency shall provide written notice to the mentally ill
12 person and the State guardian of the nature of the complaint
13 based upon which the agency has gained access to the records.
14 No record or the contents of the record shall be redisclosed by
15 the agency unless the person who is mentally ill and the State
16 guardian are provided 7 days advance written notice, except in
17 emergency situations, of the agency's intent to redisclose such
18 record. Within such 7-day period, the mentally ill person or
19 the State guardian may seek an injunction prohibiting the
20 agency's redisclosure of such record on the grounds that such
21 redisclosure is contrary to the interests of the mentally ill
22 person.

23 Upon request, the authorized agency shall be entitled to
24 inspect and copy any clinical or trust fund records of mentally
25 ill persons which may further the agency's investigation of
26 alleged problems affecting numbers of mentally ill persons.

1 When required by law, any personally identifiable information
2 of mentally ill persons shall be removed from the records.
3 However, the agency may not inspect or copy any records or
4 other materials when the removal of personally identifiable
5 information imposes an unreasonable burden on any facility as
6 defined by the Mental Health and Developmental Disabilities
7 Code, the Nursing Home Care Act, the Specialized Mental Health
8 Rehabilitation Act of 2013, or the Child Care Act of 1969, or
9 any other facility providing care or treatment to mentally ill
10 persons.

11 (D) Prior to instituting any legal action in a federal or
12 State court on behalf of a mentally ill individual, an eligible
13 protection and advocacy system, or a State agency or nonprofit
14 organization which entered into a contract with such an
15 eligible system under Section 104(a) of the federal Protection
16 and Advocacy for Mentally Ill Individuals Act of 1986, shall
17 exhaust in a timely manner all administrative remedies where
18 appropriate. If, in pursuing administrative remedies, the
19 system, State agency or organization determines that any matter
20 with respect to such individual will not be resolved within a
21 reasonable time, the system, State agency or organization may
22 pursue alternative remedies, including the initiation of
23 appropriate legal action.

24 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
25 eff. 7-13-12; 98-104, eff. 7-22-13.)

1 Section 205. The Developmental Disability and Mental
2 Disability Services Act is amended by changing Sections 2-3 and
3 5-1 as follows:

4 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

5 Sec. 2-3. As used in this Article, unless the context
6 requires otherwise:

7 (a) "Agency" means an agency or entity licensed by the
8 Department pursuant to this Article or pursuant to the
9 Community Residential Alternatives Licensing Act.

10 (b) "Department" means the Department of Human Services, as
11 successor to the Department of Mental Health and Developmental
12 Disabilities.

13 (c) "Home-based services" means services provided to a
14 mentally disabled adult who lives in his or her own home. These
15 services include but are not limited to:

16 (1) home health services;

17 (2) case management;

18 (3) crisis management;

19 (4) training and assistance in self-care;

20 (5) personal care services;

21 (6) habilitation and rehabilitation services;

22 (7) employment-related services;

23 (8) respite care; and

24 (9) other skill training that enables a person to
25 become self-supporting.

1 (d) "Legal guardian" means a person appointed by a court of
2 competent jurisdiction to exercise certain powers on behalf of
3 a mentally disabled adult.

4 (e) "Mentally disabled adult" means a person over the age
5 of 18 years who lives in his or her own home; who needs
6 home-based services, but does not require 24-hour-a-day
7 supervision; and who has one of the following conditions:
8 severe autism, severe mental illness, a severe or profound
9 intellectual disability, or severe and multiple impairments.

10 (f) In one's "own home" means that a mentally disabled
11 adult lives alone; or that a mentally disabled adult is in
12 full-time residence with his or her parents, legal guardian, or
13 other relatives; or that a mentally disabled adult is in
14 full-time residence in a setting not subject to licensure under
15 the Nursing Home Care Act, the Specialized Mental Health
16 Rehabilitation Act of 2013, the ID/DD Community Care Act, the
17 MC/DD Act, or the Child Care Act of 1969, as now or hereafter
18 amended, with 3 or fewer other adults unrelated to the mentally
19 disabled adult who do not provide home-based services to the
20 mentally disabled adult.

21 (g) "Parent" means the biological or adoptive parent of a
22 mentally disabled adult, or a person licensed as a foster
23 parent under the laws of this State who acts as a mentally
24 disabled adult's foster parent.

25 (h) "Relative" means any of the following relationships by
26 blood, marriage or adoption: parent, son, daughter, brother,

1 sister, grandparent, uncle, aunt, nephew, niece, great
2 grandparent, great uncle, great aunt, stepbrother, stepsister,
3 stepson, stepdaughter, stepparent or first cousin.

4 (i) "Severe autism" means a lifelong developmental
5 disability which is typically manifested before 30 months of
6 age and is characterized by severe disturbances in reciprocal
7 social interactions; verbal and nonverbal communication and
8 imaginative activity; and repertoire of activities and
9 interests. A person shall be determined severely autistic, for
10 purposes of this Article, if both of the following are present:

11 (1) Diagnosis consistent with the criteria for
12 autistic disorder in the current edition of the Diagnostic
13 and Statistical Manual of Mental Disorders.

14 (2) Severe disturbances in reciprocal social
15 interactions; verbal and nonverbal communication and
16 imaginative activity; repertoire of activities and
17 interests. A determination of severe autism shall be based
18 upon a comprehensive, documented assessment with an
19 evaluation by a licensed clinical psychologist or
20 psychiatrist. A determination of severe autism shall not be
21 based solely on behaviors relating to environmental,
22 cultural or economic differences.

23 (j) "Severe mental illness" means the manifestation of all
24 of the following characteristics:

25 (1) A primary diagnosis of one of the major mental
26 disorders in the current edition of the Diagnostic and

1 Statistical Manual of Mental Disorders listed below:

- 2 (A) Schizophrenia disorder.
- 3 (B) Delusional disorder.
- 4 (C) Schizo-affective disorder.
- 5 (D) Bipolar affective disorder.
- 6 (E) Atypical psychosis.
- 7 (F) Major depression, recurrent.

8 (2) The individual's mental illness must substantially
9 impair his or her functioning in at least 2 of the
10 following areas:

- 11 (A) Self-maintenance.
- 12 (B) Social functioning.
- 13 (C) Activities of community living.
- 14 (D) Work skills.

15 (3) Disability must be present or expected to be
16 present for at least one year.

17 A determination of severe mental illness shall be based
18 upon a comprehensive, documented assessment with an evaluation
19 by a licensed clinical psychologist or psychiatrist, and shall
20 not be based solely on behaviors relating to environmental,
21 cultural or economic differences.

22 (k) "Severe or profound intellectual disability" means a
23 manifestation of all of the following characteristics:

24 (1) A diagnosis which meets Classification in Mental
25 Retardation or criteria in the current edition of the
26 Diagnostic and Statistical Manual of Mental Disorders for

1 severe or profound mental retardation (an IQ of 40 or
2 below). This must be measured by a standardized instrument
3 for general intellectual functioning.

4 (2) A severe or profound level of disturbed adaptive
5 behavior. This must be measured by a standardized adaptive
6 behavior scale or informal appraisal by the professional in
7 keeping with illustrations in Classification in Mental
8 Retardation, 1983.

9 (3) Disability diagnosed before age of 18.

10 A determination of a severe or profound intellectual
11 disability shall be based upon a comprehensive, documented
12 assessment with an evaluation by a licensed clinical
13 psychologist or certified school psychologist or a
14 psychiatrist, and shall not be based solely on behaviors
15 relating to environmental, cultural or economic differences.

16 (1) "Severe and multiple impairments" means the
17 manifestation of all of the following characteristics:

18 (1) The evaluation determines the presence of a
19 developmental disability which is expected to continue
20 indefinitely, constitutes a substantial handicap and is
21 attributable to any of the following:

22 (A) Intellectual disability, which is defined as
23 general intellectual functioning that is 2 or more
24 standard deviations below the mean concurrent with
25 impairment of adaptive behavior which is 2 or more
26 standard deviations below the mean. Assessment of the

1 individual's intellectual functioning must be measured
2 by a standardized instrument for general intellectual
3 functioning.

4 (B) Cerebral palsy.

5 (C) Epilepsy.

6 (D) Autism.

7 (E) Any other condition which results in
8 impairment similar to that caused by an intellectual
9 disability and which requires services similar to
10 those required by intellectually disabled persons.

11 (2) The evaluation determines multiple handicaps in
12 physical, sensory, behavioral or cognitive functioning
13 which constitute a severe or profound impairment
14 attributable to one or more of the following:

15 (A) Physical functioning, which severely impairs
16 the individual's motor performance that may be due to:

17 (i) Neurological, psychological or physical
18 involvement resulting in a variety of disabling
19 conditions such as hemiplegia, quadriplegia or
20 ataxia,

21 (ii) Severe organ systems involvement such as
22 congenital heart defect,

23 (iii) Physical abnormalities resulting in the
24 individual being non-mobile and non-ambulatory or
25 confined to bed and receiving assistance in
26 transferring, or

1 (iv) The need for regular medical or nursing
2 supervision such as gastrostomy care and feeding.

3 Assessment of physical functioning must be based
4 on clinical medical assessment by a physician licensed
5 to practice medicine in all its branches, using the
6 appropriate instruments, techniques and standards of
7 measurement required by the professional.

8 (B) Sensory, which involves severe restriction due
9 to hearing or visual impairment limiting the
10 individual's movement and creating dependence in
11 completing most daily activities. Hearing impairment
12 is defined as a loss of 70 decibels aided or speech
13 discrimination of less than 50% aided. Visual
14 impairment is defined as 20/200 corrected in the better
15 eye or a visual field of 20 degrees or less. Sensory
16 functioning must be based on clinical medical
17 assessment by a physician licensed to practice
18 medicine in all its branches using the appropriate
19 instruments, techniques and standards of measurement
20 required by the professional.

21 (C) Behavioral, which involves behavior that is
22 maladaptive and presents a danger to self or others, is
23 destructive to property by deliberately breaking,
24 destroying or defacing objects, is disruptive by
25 fighting, or has other socially offensive behaviors in
26 sufficient frequency or severity to seriously limit

1 social integration. Assessment of behavioral
2 functioning may be measured by a standardized scale or
3 informal appraisal by a clinical psychologist or
4 psychiatrist.

5 (D) Cognitive, which involves intellectual
6 functioning at a measured IQ of 70 or below. Assessment
7 of cognitive functioning must be measured by a
8 standardized instrument for general intelligence.

9 (3) The evaluation determines that development is
10 substantially less than expected for the age in cognitive,
11 affective or psychomotor behavior as follows:

12 (A) Cognitive, which involves intellectual
13 functioning at a measured IQ of 70 or below. Assessment
14 of cognitive functioning must be measured by a
15 standardized instrument for general intelligence.

16 (B) Affective behavior, which involves over and
17 under responding to stimuli in the environment and may
18 be observed in mood, attention to awareness, or in
19 behaviors such as euphoria, anger or sadness that
20 seriously limit integration into society. Affective
21 behavior must be based on clinical assessment using the
22 appropriate instruments, techniques and standards of
23 measurement required by the professional.

24 (C) Psychomotor, which includes a severe
25 developmental delay in fine or gross motor skills so
26 that development in self-care, social interaction,

1 communication or physical activity will be greatly
2 delayed or restricted.

3 (4) A determination that the disability originated
4 before the age of 18 years.

5 A determination of severe and multiple impairments shall be
6 based upon a comprehensive, documented assessment with an
7 evaluation by a licensed clinical psychologist or
8 psychiatrist.

9 If the examiner is a licensed clinical psychologist,
10 ancillary evaluation of physical impairment, cerebral palsy or
11 epilepsy must be made by a physician licensed to practice
12 medicine in all its branches.

13 Regardless of the discipline of the examiner, ancillary
14 evaluation of visual impairment must be made by an
15 ophthalmologist or a licensed optometrist.

16 Regardless of the discipline of the examiner, ancillary
17 evaluation of hearing impairment must be made by an
18 otolaryngologist or an audiologist with a certificate of
19 clinical competency.

20 The only exception to the above is in the case of a person
21 with cerebral palsy or epilepsy who, according to the
22 eligibility criteria listed below, has multiple impairments
23 which are only physical and sensory. In such a case, a
24 physician licensed to practice medicine in all its branches may
25 serve as the examiner.

26 (m) "Twenty-four-hour-a-day supervision" means

1 24-hour-a-day care by a trained mental health or developmental
2 disability professional on an ongoing basis.

3 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
4 eff. 7-13-12; 98-104, eff. 7-22-13.)

5 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

6 Sec. 5-1. As the mental health and developmental
7 disabilities or intellectual disabilities authority for the
8 State of Illinois, the Department of Human Services shall have
9 the authority to license, certify and prescribe standards
10 governing the programs and services provided under this Act, as
11 well as all other agencies or programs which provide home-based
12 or community-based services to the mentally disabled, except
13 those services, programs or agencies established under or
14 otherwise subject to the Child Care Act of 1969, the
15 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~ the
16 ID/DD Community Care Act, or the MC/DD Act, as now or hereafter
17 amended, and this Act shall not be construed to limit the
18 application of those Acts.

19 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
20 eff. 7-13-12; 98-104, eff. 7-22-13.)

21 Section 210. The Medical Patient Rights Act is amended by
22 changing Section 6 as follows:

23 (410 ILCS 50/6)

1 Sec. 6. Identification badges. A health care facility that
2 provides treatment or care to a patient in this State shall
3 require each employee of or volunteer for the facility,
4 including a student, who examines or treats a patient or
5 resident of the facility to wear an identification badge that
6 readily discloses the first name, licensure status, if any, and
7 staff position of the person examining or treating the patient
8 or resident. This Section does not apply to a facility licensed
9 or certified under the ID/DD Community Care Act, the MC/DD Act,
10 or the Community-Integrated Living Arrangements Licensure and
11 Certification Act.

12 (Source: P.A. 98-243, eff. 1-1-14; 98-890, eff. 1-1-15.)

13 Section 215. The Facilities Requiring Smoke Detectors Act
14 is amended by changing Section 1 as follows:

15 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

16 Sec. 1. For purposes of this Act, unless the context
17 requires otherwise:

18 (a) "Facility" means:

19 (1) Any long-term care facility as defined in Section
20 1-113 of the Nursing Home Care Act or any facility as
21 defined in Section 1-113 of the ID/DD Community Care Act, Section 1-113 of the MC/DD Act, or the Specialized Mental
22 Section 1-113 of the MC/DD Act, or the Specialized Mental
23 Health Rehabilitation Act of 2013, as amended;

24 (2) Any community residential alternative as defined

1 in paragraph (4) of Section 3 of the Community Residential
2 Alternatives Licensing Act, as amended; and

3 (3) Any child care facility as defined in Section 2.05
4 of the Child Care Act of 1969, as amended.

5 (b) "Approved smoke detector" or "detector" means a smoke
6 detector of the ionization or photoelectric type which complies
7 with all the requirements of the rules and regulations of the
8 Illinois State Fire Marshal.

9 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
10 eff. 7-13-12; 98-104, eff. 7-22-13.)

11 Section 220. The Criminal Code of 2012 is amended by
12 changing Sections 12-4.4a and 26-1 as follows:

13 (720 ILCS 5/12-4.4a)

14 Sec. 12-4.4a. Abuse or criminal neglect of a long term care
15 facility resident; criminal abuse or neglect of an elderly
16 person or person with a disability.

17 (a) Abuse or criminal neglect of a long term care facility
18 resident.

19 (1) A person or an owner or licensee commits abuse of a
20 long term care facility resident when he or she knowingly
21 causes any physical or mental injury to, or commits any
22 sexual offense in this Code against, a resident.

23 (2) A person or an owner or licensee commits criminal
24 neglect of a long term care facility resident when he or

1 she recklessly:

2 (A) performs acts that cause a resident's life to
3 be endangered, health to be injured, or pre-existing
4 physical or mental condition to deteriorate, or that
5 create the substantial likelihood that an elderly
6 person's or person with a disability's life will be
7 endangered, health will be injured, or pre-existing
8 physical or mental condition will deteriorate;

9 (B) fails to perform acts that he or she knows or
10 reasonably should know are necessary to maintain or
11 preserve the life or health of a resident, and that
12 failure causes the resident's life to be endangered,
13 health to be injured, or pre-existing physical or
14 mental condition to deteriorate, or that create the
15 substantial likelihood that an elderly person's or
16 person with a disability's life will be endangered,
17 health will be injured, or pre-existing physical or
18 mental condition will deteriorate; or

19 (C) abandons a resident.

20 (3) A person or an owner or licensee commits neglect of
21 a long term care facility resident when he or she
22 negligently fails to provide adequate medical care,
23 personal care, or maintenance to the resident which results
24 in physical or mental injury or deterioration of the
25 resident's physical or mental condition. An owner or
26 licensee is guilty under this subdivision (a) (3), however,

1 only if the owner or licensee failed to exercise reasonable
2 care in the hiring, training, supervising, or providing of
3 staff or other related routine administrative
4 responsibilities.

5 (b) Criminal abuse or neglect of an elderly person or
6 person with a disability.

7 (1) A caregiver commits criminal abuse or neglect of an
8 elderly person or person with a disability when he or she
9 knowingly does any of the following:

10 (A) performs acts that cause the person's life to
11 be endangered, health to be injured, or pre-existing
12 physical or mental condition to deteriorate;

13 (B) fails to perform acts that he or she knows or
14 reasonably should know are necessary to maintain or
15 preserve the life or health of the person, and that
16 failure causes the person's life to be endangered,
17 health to be injured, or pre-existing physical or
18 mental condition to deteriorate;

19 (C) abandons the person;

20 (D) physically abuses, harasses, intimidates, or
21 interferes with the personal liberty of the person; or

22 (E) exposes the person to willful deprivation.

23 (2) It is not a defense to criminal abuse or neglect of
24 an elderly person or person with a disability that the
25 caregiver reasonably believed that the victim was not an
26 elderly person or person with a disability.

1 (c) Offense not applicable.

2 (1) Nothing in this Section applies to a physician
3 licensed to practice medicine in all its branches or a duly
4 licensed nurse providing care within the scope of his or
5 her professional judgment and within the accepted
6 standards of care within the community.

7 (2) Nothing in this Section imposes criminal liability
8 on a caregiver who made a good faith effort to provide for
9 the health and personal care of an elderly person or person
10 with a disability, but through no fault of his or her own
11 was unable to provide such care.

12 (3) Nothing in this Section applies to the medical
13 supervision, regulation, or control of the remedial care or
14 treatment of residents in a long term care facility
15 conducted for those who rely upon treatment by prayer or
16 spiritual means in accordance with the creed or tenets of
17 any well-recognized church or religious denomination as
18 described in Section 3-803 of the Nursing Home Care Act,
19 Section 1-102 of the Specialized Mental Health
20 Rehabilitation Act of 2013, ~~or~~ Section 3-803 of the ID/DD
21 Community Care Act, or Section 3-803 of the MC/DD Act.

22 (4) Nothing in this Section prohibits a caregiver from
23 providing treatment to an elderly person or person with a
24 disability by spiritual means through prayer alone and care
25 consistent therewith in lieu of medical care and treatment
26 in accordance with the tenets and practices of any church

1 or religious denomination of which the elderly person or
2 person with a disability is a member.

3 (5) Nothing in this Section limits the remedies
4 available to the victim under the Illinois Domestic
5 Violence Act of 1986.

6 (d) Sentence.

7 (1) Long term care facility. Abuse of a long term care
8 facility resident is a Class 3 felony. Criminal neglect of
9 a long term care facility resident is a Class 4 felony,
10 unless it results in the resident's death in which case it
11 is a Class 3 felony. Neglect of a long term care facility
12 resident is a petty offense.

13 (2) Caregiver. Criminal abuse or neglect of an elderly
14 person or person with a disability is a Class 3 felony,
15 unless it results in the person's death in which case it is
16 a Class 2 felony, and if imprisonment is imposed it shall
17 be for a minimum term of 3 years and a maximum term of 14
18 years.

19 (e) Definitions. For the purposes of this Section:

20 "Abandon" means to desert or knowingly forsake a resident
21 or an elderly person or person with a disability under
22 circumstances in which a reasonable person would continue to
23 provide care and custody.

24 "Caregiver" means a person who has a duty to provide for an
25 elderly person or person with a disability's health and
26 personal care, at the elderly person or person with a

1 disability's place of residence, including, but not limited to,
2 food and nutrition, shelter, hygiene, prescribed medication,
3 and medical care and treatment, and includes any of the
4 following:

5 (1) A parent, spouse, adult child, or other relative by
6 blood or marriage who resides with or resides in the same
7 building with or regularly visits the elderly person or
8 person with a disability, knows or reasonably should know
9 of such person's physical or mental impairment, and knows
10 or reasonably should know that such person is unable to
11 adequately provide for his or her own health and personal
12 care.

13 (2) A person who is employed by the elderly person or
14 person with a disability or by another to reside with or
15 regularly visit the elderly person or person with a
16 disability and provide for such person's health and
17 personal care.

18 (3) A person who has agreed for consideration to reside
19 with or regularly visit the elderly person or person with a
20 disability and provide for such person's health and
21 personal care.

22 (4) A person who has been appointed by a private or
23 public agency or by a court of competent jurisdiction to
24 provide for the elderly person or person with a
25 disability's health and personal care.

26 "Caregiver" does not include a long-term care facility

1 licensed or certified under the Nursing Home Care Act or a
2 facility licensed or certified under the ID/DD Community Care
3 Act, the MC/DD Act, or the Specialized Mental Health
4 Rehabilitation Act of 2013, or any administrative, medical, or
5 other personnel of such a facility, or a health care provider
6 who is licensed under the Medical Practice Act of 1987 and
7 renders care in the ordinary course of his or her profession.

8 "Elderly person" means a person 60 years of age or older
9 who is incapable of adequately providing for his or her own
10 health and personal care.

11 "Licensee" means the individual or entity licensed to
12 operate a facility under the Nursing Home Care Act, the
13 Specialized Mental Health Rehabilitation Act of 2013, the ID/DD
14 Community Care Act, the MC/DD Act, or the Assisted Living and
15 Shared Housing Act.

16 "Long term care facility" means a private home,
17 institution, building, residence, or other place, whether
18 operated for profit or not, or a county home for the infirm and
19 chronically ill operated pursuant to Division 5-21 or 5-22 of
20 the Counties Code, or any similar institution operated by the
21 State of Illinois or a political subdivision thereof, which
22 provides, through its ownership or management, personal care,
23 sheltered care, or nursing for 3 or more persons not related to
24 the owner by blood or marriage. The term also includes skilled
25 nursing facilities and intermediate care facilities as defined
26 in Titles XVIII and XIX of the federal Social Security Act and

1 assisted living establishments and shared housing
2 establishments licensed under the Assisted Living and Shared
3 Housing Act.

4 "Owner" means the owner a long term care facility as
5 provided in the Nursing Home Care Act, the owner of a facility
6 as provided under the Specialized Mental Health Rehabilitation
7 Act of 2013, the owner of a facility as provided in the ID/DD
8 Community Care Act, the owner of a facility as provided in the
9 MC/DD Act, or the owner of an assisted living or shared housing
10 establishment as provided in the Assisted Living and Shared
11 Housing Act.

12 "Person with a disability" means a person who suffers from
13 a permanent physical or mental impairment, resulting from
14 disease, injury, functional disorder, or congenital condition,
15 which renders the person incapable of adequately providing for
16 his or her own health and personal care.

17 "Resident" means a person residing in a long term care
18 facility.

19 "Willful deprivation" has the meaning ascribed to it in
20 paragraph (15) of Section 103 of the Illinois Domestic Violence
21 Act of 1986.

22 (Source: P.A. 96-1551, eff. 7-1-11; incorporates 97-38, eff.
23 6-28-11, and 97-227, eff. 1-1-12; 97-1109, eff. 1-1-13; 98-104,
24 eff. 7-22-13.)

25 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

1 Sec. 26-1. Disorderly conduct.

2 (a) A person commits disorderly conduct when he or she
3 knowingly:

4 (1) Does any act in such unreasonable manner as to
5 alarm or disturb another and to provoke a breach of the
6 peace;

7 (2) Transmits or causes to be transmitted in any manner
8 to the fire department of any city, town, village or fire
9 protection district a false alarm of fire, knowing at the
10 time of the transmission that there is no reasonable ground
11 for believing that the fire exists;

12 (3) Transmits or causes to be transmitted in any manner
13 to another a false alarm to the effect that a bomb or other
14 explosive of any nature or a container holding poison gas,
15 a deadly biological or chemical contaminant, or
16 radioactive substance is concealed in a place where its
17 explosion or release would endanger human life, knowing at
18 the time of the transmission that there is no reasonable
19 ground for believing that the bomb, explosive or a
20 container holding poison gas, a deadly biological or
21 chemical contaminant, or radioactive substance is
22 concealed in the place;

23 (3.5) Transmits or causes to be transmitted a threat of
24 destruction of a school building or school property, or a
25 threat of violence, death, or bodily harm directed against
26 persons at a school, school function, or school event,

1 whether or not school is in session;

2 (4) Transmits or causes to be transmitted in any manner
3 to any peace officer, public officer or public employee a
4 report to the effect that an offense will be committed, is
5 being committed, or has been committed, knowing at the time
6 of the transmission that there is no reasonable ground for
7 believing that the offense will be committed, is being
8 committed, or has been committed;

9 (5) Transmits or causes to be transmitted a false
10 report to any public safety agency without the reasonable
11 grounds necessary to believe that transmitting the report
12 is necessary for the safety and welfare of the public; or

13 (6) Calls the number "911" for the purpose of making or
14 transmitting a false alarm or complaint and reporting
15 information when, at the time the call or transmission is
16 made, the person knows there is no reasonable ground for
17 making the call or transmission and further knows that the
18 call or transmission could result in the emergency response
19 of any public safety agency;

20 (7) Transmits or causes to be transmitted a false
21 report to the Department of Children and Family Services
22 under Section 4 of the "Abused and Neglected Child
23 Reporting Act";

24 (8) Transmits or causes to be transmitted a false
25 report to the Department of Public Health under the Nursing
26 Home Care Act, the Specialized Mental Health

1 Rehabilitation Act of 2013, ~~or~~ the ID/DD Community Care
2 Act, or the MC/DD Act;

3 (9) Transmits or causes to be transmitted in any manner
4 to the police department or fire department of any
5 municipality or fire protection district, or any privately
6 owned and operated ambulance service, a false request for
7 an ambulance, emergency medical technician-ambulance or
8 emergency medical technician-paramedic knowing at the time
9 there is no reasonable ground for believing that the
10 assistance is required;

11 (10) Transmits or causes to be transmitted a false
12 report under Article II of "An Act in relation to victims
13 of violence and abuse", approved September 16, 1984, as
14 amended;

15 (11) Enters upon the property of another and for a lewd
16 or unlawful purpose deliberately looks into a dwelling on
17 the property through any window or other opening in it; or

18 (12) While acting as a collection agency as defined in
19 the Collection Agency Act or as an employee of the
20 collection agency, and while attempting to collect an
21 alleged debt, makes a telephone call to the alleged debtor
22 which is designed to harass, annoy or intimidate the
23 alleged debtor.

24 (b) Sentence. A violation of subsection (a)(1) of this
25 Section is a Class C misdemeanor. A violation of subsection
26 (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A

1 violation of subsection (a)(8) or (a)(10) of this Section is a
2 Class B misdemeanor. A violation of subsection (a)(2),
3 (a)(3.5), (a)(4), (a)(6), (a)(7), or (a)(9) of this Section is
4 a Class 4 felony. A violation of subsection (a)(3) of this
5 Section is a Class 3 felony, for which a fine of not less than
6 \$3,000 and no more than \$10,000 shall be assessed in addition
7 to any other penalty imposed.

8 A violation of subsection (a)(12) of this Section is a
9 Business Offense and shall be punished by a fine not to exceed
10 \$3,000. A second or subsequent violation of subsection (a)(7)
11 or (a)(5) of this Section is a Class 4 felony. A third or
12 subsequent violation of subsection (a)(11) of this Section is a
13 Class 4 felony.

14 (c) In addition to any other sentence that may be imposed,
15 a court shall order any person convicted of disorderly conduct
16 to perform community service for not less than 30 and not more
17 than 120 hours, if community service is available in the
18 jurisdiction and is funded and approved by the county board of
19 the county where the offense was committed. In addition,
20 whenever any person is placed on supervision for an alleged
21 offense under this Section, the supervision shall be
22 conditioned upon the performance of the community service.

23 This subsection does not apply when the court imposes a
24 sentence of incarceration.

25 (d) In addition to any other sentence that may be imposed,
26 the court shall order any person convicted of disorderly

1 conduct under paragraph (3) of subsection (a) involving a false
2 alarm of a threat that a bomb or explosive device has been
3 placed in a school to reimburse the unit of government that
4 employs the emergency response officer or officers that were
5 dispatched to the school for the cost of the search for a bomb
6 or explosive device. For the purposes of this Section,
7 "emergency response" means any incident requiring a response by
8 a police officer, a firefighter, a State Fire Marshal employee,
9 or an ambulance.

10 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
11 eff. 7-13-12; 97-1108, eff. 1-1-13; 98-104, eff. 7-22-13.)

12 Section 225. The Unified Code of Corrections is amended by
13 changing Section 5-5-3.2 as follows:

14 (730 ILCS 5/5-5-3.2)

15 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
16 Sentencing.

17 (a) The following factors shall be accorded weight in favor
18 of imposing a term of imprisonment or may be considered by the
19 court as reasons to impose a more severe sentence under Section
20 5-8-1 or Article 4.5 of Chapter V:

21 (1) the defendant's conduct caused or threatened
22 serious harm;

23 (2) the defendant received compensation for committing
24 the offense;

1 (3) the defendant has a history of prior delinquency or
2 criminal activity;

3 (4) the defendant, by the duties of his office or by
4 his position, was obliged to prevent the particular offense
5 committed or to bring the offenders committing it to
6 justice;

7 (5) the defendant held public office at the time of the
8 offense, and the offense related to the conduct of that
9 office;

10 (6) the defendant utilized his professional reputation
11 or position in the community to commit the offense, or to
12 afford him an easier means of committing it;

13 (7) the sentence is necessary to deter others from
14 committing the same crime;

15 (8) the defendant committed the offense against a
16 person 60 years of age or older or such person's property;

17 (9) the defendant committed the offense against a
18 person who is physically handicapped or such person's
19 property;

20 (10) by reason of another individual's actual or
21 perceived race, color, creed, religion, ancestry, gender,
22 sexual orientation, physical or mental disability, or
23 national origin, the defendant committed the offense
24 against (i) the person or property of that individual; (ii)
25 the person or property of a person who has an association
26 with, is married to, or has a friendship with the other

1 individual; or (iii) the person or property of a relative
2 (by blood or marriage) of a person described in clause (i)
3 or (ii). For the purposes of this Section, "sexual
4 orientation" means heterosexuality, homosexuality, or
5 bisexuality;

6 (11) the offense took place in a place of worship or on
7 the grounds of a place of worship, immediately prior to,
8 during or immediately following worship services. For
9 purposes of this subparagraph, "place of worship" shall
10 mean any church, synagogue or other building, structure or
11 place used primarily for religious worship;

12 (12) the defendant was convicted of a felony committed
13 while he was released on bail or his own recognizance
14 pending trial for a prior felony and was convicted of such
15 prior felony, or the defendant was convicted of a felony
16 committed while he was serving a period of probation,
17 conditional discharge, or mandatory supervised release
18 under subsection (d) of Section 5-8-1 for a prior felony;

19 (13) the defendant committed or attempted to commit a
20 felony while he was wearing a bulletproof vest. For the
21 purposes of this paragraph (13), a bulletproof vest is any
22 device which is designed for the purpose of protecting the
23 wearer from bullets, shot or other lethal projectiles;

24 (14) the defendant held a position of trust or
25 supervision such as, but not limited to, family member as
26 defined in Section 11-0.1 of the Criminal Code of 2012,

1 teacher, scout leader, baby sitter, or day care worker, in
2 relation to a victim under 18 years of age, and the
3 defendant committed an offense in violation of Section
4 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
5 11-14.4 except for an offense that involves keeping a place
6 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
7 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
8 or 12-16 of the Criminal Code of 1961 or the Criminal Code
9 of 2012 against that victim;

10 (15) the defendant committed an offense related to the
11 activities of an organized gang. For the purposes of this
12 factor, "organized gang" has the meaning ascribed to it in
13 Section 10 of the Streetgang Terrorism Omnibus Prevention
14 Act;

15 (16) the defendant committed an offense in violation of
16 one of the following Sections while in a school, regardless
17 of the time of day or time of year; on any conveyance
18 owned, leased, or contracted by a school to transport
19 students to or from school or a school related activity; on
20 the real property of a school; or on a public way within
21 1,000 feet of the real property comprising any school:
22 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
23 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
25 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
26 18-2, or 33A-2, or Section 12-3.05 except for subdivision

1 (a) (4) or (g) (1), of the Criminal Code of 1961 or the
2 Criminal Code of 2012;

3 (16.5) the defendant committed an offense in violation
4 of one of the following Sections while in a day care
5 center, regardless of the time of day or time of year; on
6 the real property of a day care center, regardless of the
7 time of day or time of year; or on a public way within
8 1,000 feet of the real property comprising any day care
9 center, regardless of the time of day or time of year:
10 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
11 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
12 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
13 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
14 18-2, or 33A-2, or Section 12-3.05 except for subdivision
15 (a) (4) or (g) (1), of the Criminal Code of 1961 or the
16 Criminal Code of 2012;

17 (17) the defendant committed the offense by reason of
18 any person's activity as a community policing volunteer or
19 to prevent any person from engaging in activity as a
20 community policing volunteer. For the purpose of this
21 Section, "community policing volunteer" has the meaning
22 ascribed to it in Section 2-3.5 of the Criminal Code of
23 2012;

24 (18) the defendant committed the offense in a nursing
25 home or on the real property comprising a nursing home. For
26 the purposes of this paragraph (18), "nursing home" means a

1 skilled nursing or intermediate long term care facility
2 that is subject to license by the Illinois Department of
3 Public Health under the Nursing Home Care Act, the
4 Specialized Mental Health Rehabilitation Act of 2013, ~~or~~
5 the ID/DD Community Care Act, or the MC/DD Act;

6 (19) the defendant was a federally licensed firearm
7 dealer and was previously convicted of a violation of
8 subsection (a) of Section 3 of the Firearm Owners
9 Identification Card Act and has now committed either a
10 felony violation of the Firearm Owners Identification Card
11 Act or an act of armed violence while armed with a firearm;

12 (20) the defendant (i) committed the offense of
13 reckless homicide under Section 9-3 of the Criminal Code of
14 1961 or the Criminal Code of 2012 or the offense of driving
15 under the influence of alcohol, other drug or drugs,
16 intoxicating compound or compounds or any combination
17 thereof under Section 11-501 of the Illinois Vehicle Code
18 or a similar provision of a local ordinance and (ii) was
19 operating a motor vehicle in excess of 20 miles per hour
20 over the posted speed limit as provided in Article VI of
21 Chapter 11 of the Illinois Vehicle Code;

22 (21) the defendant (i) committed the offense of
23 reckless driving or aggravated reckless driving under
24 Section 11-503 of the Illinois Vehicle Code and (ii) was
25 operating a motor vehicle in excess of 20 miles per hour
26 over the posted speed limit as provided in Article VI of

1 Chapter 11 of the Illinois Vehicle Code;

2 (22) the defendant committed the offense against a
3 person that the defendant knew, or reasonably should have
4 known, was a member of the Armed Forces of the United
5 States serving on active duty. For purposes of this clause
6 (22), the term "Armed Forces" means any of the Armed Forces
7 of the United States, including a member of any reserve
8 component thereof or National Guard unit called to active
9 duty;

10 (23) the defendant committed the offense against a
11 person who was elderly, disabled, or infirm by taking
12 advantage of a family or fiduciary relationship with the
13 elderly, disabled, or infirm person;

14 (24) the defendant committed any offense under Section
15 11-20.1 of the Criminal Code of 1961 or the Criminal Code
16 of 2012 and possessed 100 or more images;

17 (25) the defendant committed the offense while the
18 defendant or the victim was in a train, bus, or other
19 vehicle used for public transportation;

20 (26) the defendant committed the offense of child
21 pornography or aggravated child pornography, specifically
22 including paragraph (1), (2), (3), (4), (5), or (7) of
23 subsection (a) of Section 11-20.1 of the Criminal Code of
24 1961 or the Criminal Code of 2012 where a child engaged in,
25 solicited for, depicted in, or posed in any act of sexual
26 penetration or bound, fettered, or subject to sadistic,

1 masochistic, or sadomasochistic abuse in a sexual context
2 and specifically including paragraph (1), (2), (3), (4),
3 (5), or (7) of subsection (a) of Section 11-20.1B or
4 Section 11-20.3 of the Criminal Code of 1961 where a child
5 engaged in, solicited for, depicted in, or posed in any act
6 of sexual penetration or bound, fettered, or subject to
7 sadistic, masochistic, or sadomasochistic abuse in a
8 sexual context;

9 (27) the defendant committed the offense of first
10 degree murder, assault, aggravated assault, battery,
11 aggravated battery, robbery, armed robbery, or aggravated
12 robbery against a person who was a veteran and the
13 defendant knew, or reasonably should have known, that the
14 person was a veteran performing duties as a representative
15 of a veterans' organization. For the purposes of this
16 paragraph (27), "veteran" means an Illinois resident who
17 has served as a member of the United States Armed Forces, a
18 member of the Illinois National Guard, or a member of the
19 United States Reserve Forces; and "veterans' organization"
20 means an organization comprised of members of which
21 substantially all are individuals who are veterans or
22 spouses, widows, or widowers of veterans, the primary
23 purpose of which is to promote the welfare of its members
24 and to provide assistance to the general public in such a
25 way as to confer a public benefit; or

26 (28) the defendant committed the offense of assault,

1 aggravated assault, battery, aggravated battery, robbery,
2 armed robbery, or aggravated robbery against a person that
3 the defendant knew or reasonably should have known was a
4 letter carrier or postal worker while that person was
5 performing his or her duties delivering mail for the United
6 States Postal Service.

7 For the purposes of this Section:

8 "School" is defined as a public or private elementary or
9 secondary school, community college, college, or university.

10 "Day care center" means a public or private State certified
11 and licensed day care center as defined in Section 2.09 of the
12 Child Care Act of 1969 that displays a sign in plain view
13 stating that the property is a day care center.

14 "Public transportation" means the transportation or
15 conveyance of persons by means available to the general public,
16 and includes paratransit services.

17 (b) The following factors, related to all felonies, may be
18 considered by the court as reasons to impose an extended term
19 sentence under Section 5-8-2 upon any offender:

20 (1) When a defendant is convicted of any felony, after
21 having been previously convicted in Illinois or any other
22 jurisdiction of the same or similar class felony or greater
23 class felony, when such conviction has occurred within 10
24 years after the previous conviction, excluding time spent
25 in custody, and such charges are separately brought and
26 tried and arise out of different series of acts; or

1 (2) When a defendant is convicted of any felony and the
2 court finds that the offense was accompanied by
3 exceptionally brutal or heinous behavior indicative of
4 wanton cruelty; or

5 (3) When a defendant is convicted of any felony
6 committed against:

7 (i) a person under 12 years of age at the time of
8 the offense or such person's property;

9 (ii) a person 60 years of age or older at the time
10 of the offense or such person's property; or

11 (iii) a person physically handicapped at the time
12 of the offense or such person's property; or

13 (4) When a defendant is convicted of any felony and the
14 offense involved any of the following types of specific
15 misconduct committed as part of a ceremony, rite,
16 initiation, observance, performance, practice or activity
17 of any actual or ostensible religious, fraternal, or social
18 group:

19 (i) the brutalizing or torturing of humans or
20 animals;

21 (ii) the theft of human corpses;

22 (iii) the kidnapping of humans;

23 (iv) the desecration of any cemetery, religious,
24 fraternal, business, governmental, educational, or
25 other building or property; or

26 (v) ritualized abuse of a child; or

1 (5) When a defendant is convicted of a felony other
2 than conspiracy and the court finds that the felony was
3 committed under an agreement with 2 or more other persons
4 to commit that offense and the defendant, with respect to
5 the other individuals, occupied a position of organizer,
6 supervisor, financier, or any other position of management
7 or leadership, and the court further finds that the felony
8 committed was related to or in furtherance of the criminal
9 activities of an organized gang or was motivated by the
10 defendant's leadership in an organized gang; or

11 (6) When a defendant is convicted of an offense
12 committed while using a firearm with a laser sight attached
13 to it. For purposes of this paragraph, "laser sight" has
14 the meaning ascribed to it in Section 26-7 of the Criminal
15 Code of 2012; or

16 (7) When a defendant who was at least 17 years of age
17 at the time of the commission of the offense is convicted
18 of a felony and has been previously adjudicated a
19 delinquent minor under the Juvenile Court Act of 1987 for
20 an act that if committed by an adult would be a Class X or
21 Class 1 felony when the conviction has occurred within 10
22 years after the previous adjudication, excluding time
23 spent in custody; or

24 (8) When a defendant commits any felony and the
25 defendant used, possessed, exercised control over, or
26 otherwise directed an animal to assault a law enforcement

1 officer engaged in the execution of his or her official
2 duties or in furtherance of the criminal activities of an
3 organized gang in which the defendant is engaged; or

4 (9) When a defendant commits any felony and the
5 defendant knowingly video or audio records the offense with
6 the intent to disseminate the recording.

7 (c) The following factors may be considered by the court as
8 reasons to impose an extended term sentence under Section 5-8-2
9 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

10 (1) When a defendant is convicted of first degree
11 murder, after having been previously convicted in Illinois
12 of any offense listed under paragraph (c)(2) of Section
13 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
14 within 10 years after the previous conviction, excluding
15 time spent in custody, and the charges are separately
16 brought and tried and arise out of different series of
17 acts.

18 (1.5) When a defendant is convicted of first degree
19 murder, after having been previously convicted of domestic
20 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
21 (720 ILCS 5/12-3.3) committed on the same victim or after
22 having been previously convicted of violation of an order
23 of protection (720 ILCS 5/12-30) in which the same victim
24 was the protected person.

25 (2) When a defendant is convicted of voluntary
26 manslaughter, second degree murder, involuntary

1 manslaughter, or reckless homicide in which the defendant
2 has been convicted of causing the death of more than one
3 individual.

4 (3) When a defendant is convicted of aggravated
5 criminal sexual assault or criminal sexual assault, when
6 there is a finding that aggravated criminal sexual assault
7 or criminal sexual assault was also committed on the same
8 victim by one or more other individuals, and the defendant
9 voluntarily participated in the crime with the knowledge of
10 the participation of the others in the crime, and the
11 commission of the crime was part of a single course of
12 conduct during which there was no substantial change in the
13 nature of the criminal objective.

14 (4) If the victim was under 18 years of age at the time
15 of the commission of the offense, when a defendant is
16 convicted of aggravated criminal sexual assault or
17 predatory criminal sexual assault of a child under
18 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
19 of Section 12-14.1 of the Criminal Code of 1961 or the
20 Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

21 (5) When a defendant is convicted of a felony violation
22 of Section 24-1 of the Criminal Code of 1961 or the
23 Criminal Code of 2012 (720 ILCS 5/24-1) and there is a
24 finding that the defendant is a member of an organized
25 gang.

26 (6) When a defendant was convicted of unlawful use of

1 weapons under Section 24-1 of the Criminal Code of 1961 or
2 the Criminal Code of 2012 (720 ILCS 5/24-1) for possessing
3 a weapon that is not readily distinguishable as one of the
4 weapons enumerated in Section 24-1 of the Criminal Code of
5 1961 or the Criminal Code of 2012 (720 ILCS 5/24-1).

6 (7) When a defendant is convicted of an offense
7 involving the illegal manufacture of a controlled
8 substance under Section 401 of the Illinois Controlled
9 Substances Act (720 ILCS 570/401), the illegal manufacture
10 of methamphetamine under Section 25 of the Methamphetamine
11 Control and Community Protection Act (720 ILCS 646/25), or
12 the illegal possession of explosives and an emergency
13 response officer in the performance of his or her duties is
14 killed or injured at the scene of the offense while
15 responding to the emergency caused by the commission of the
16 offense. In this paragraph, "emergency" means a situation
17 in which a person's life, health, or safety is in jeopardy;
18 and "emergency response officer" means a peace officer,
19 community policing volunteer, fireman, emergency medical
20 technician-ambulance, emergency medical
21 technician-intermediate, emergency medical
22 technician-paramedic, ambulance driver, other medical
23 assistance or first aid personnel, or hospital emergency
24 room personnel.

25 (8) When the defendant is convicted of attempted mob
26 action, solicitation to commit mob action, or conspiracy to

1 commit mob action under Section 8-1, 8-2, or 8-4 of the
2 Criminal Code of 2012, where the criminal object is a
3 violation of Section 25-1 of the Criminal Code of 2012, and
4 an electronic communication is used in the commission of
5 the offense. For the purposes of this paragraph (8),
6 "electronic communication" shall have the meaning provided
7 in Section 26.5-0.1 of the Criminal Code of 2012.

8 (d) For the purposes of this Section, "organized gang" has
9 the meaning ascribed to it in Section 10 of the Illinois
10 Streetgang Terrorism Omnibus Prevention Act.

11 (e) The court may impose an extended term sentence under
12 Article 4.5 of Chapter V upon an offender who has been
13 convicted of a felony violation of Section 11-1.20, 11-1.30,
14 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or
15 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012
16 when the victim of the offense is under 18 years of age at the
17 time of the commission of the offense and, during the
18 commission of the offense, the victim was under the influence
19 of alcohol, regardless of whether or not the alcohol was
20 supplied by the offender; and the offender, at the time of the
21 commission of the offense, knew or should have known that the
22 victim had consumed alcohol.

23 (Source: P.A. 97-38, eff. 6-28-11, 97-227, eff. 1-1-12; 97-333,
24 eff. 8-12-11; 97-693, eff. 1-1-13; 97-1108, eff. 1-1-13;
25 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-14, eff.
26 1-1-14; 98-104, eff. 7-22-13; 98-385, eff. 1-1-14; 98-756, eff.

1 7-16-14.)

2 Section 230. The Secure Residential Youth Care Facility
3 Licensing Act is amended by changing Section 45-10 as follows:

4 (730 ILCS 175/45-10)

5 Sec. 45-10. Definitions. As used in this Act:

6 "Department" means the Illinois Department of Corrections.

7 "Director" means the Director of Corrections.

8 "Secure residential youth care facility" means a facility

9 (1) where youth are placed and reside for care, treatment, and
10 custody; (2) that is designed and operated so as to ensure that
11 all entrances and exits from the facility, or from a building
12 or distinct part of a building within the facility, are under
13 the exclusive control of the staff of the facility, whether or
14 not the youth has freedom of movement within the perimeter of
15 the facility or within the perimeter of a building or distinct
16 part of a building within the facility; and (3) that uses
17 physically restrictive construction including, but not limited
18 to, locks, bolts, gates, doors, bars, fences, and screen
19 barriers. This definition does not include jails, prisons,
20 detention centers, or other such correctional facilities;
21 State operated mental health facilities; or facilities
22 operating as psychiatric hospitals under a license pursuant to
23 the ID/DD Community Care Act, the MC/DD Act, the Nursing Home
24 Care Act, the Specialized Mental Health Rehabilitation Act of

1 2013, or the Hospital Licensing Act.

2 "Youth" means an adjudicated delinquent who is 18 years of
3 age or under and is transferred to the Department pursuant to
4 Section 3-10-11 of the Unified Code of Corrections.

5 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,
6 eff. 1-1-12; 97-813, eff. 7-13-12.)

7 Section 235. The Code of Civil Procedure is amended by
8 changing Section 2-203 as follows:

9 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

10 Sec. 2-203. Service on individuals.

11 (a) Except as otherwise expressly provided, service of
12 summons upon an individual defendant shall be made (1) by
13 leaving a copy of the summons with the defendant personally,
14 (2) by leaving a copy at the defendant's usual place of abode,
15 with some person of the family or a person residing there, of
16 the age of 13 years or upwards, and informing that person of
17 the contents of the summons, provided the officer or other
18 person making service shall also send a copy of the summons in
19 a sealed envelope with postage fully prepaid, addressed to the
20 defendant at his or her usual place of abode, or (3) as
21 provided in Section 1-2-9.2 of the Illinois Municipal Code with
22 respect to violation of an ordinance governing parking or
23 standing of vehicles in cities with a population over 500,000.
24 The certificate of the officer or affidavit of the person that

1 he or she has sent the copy in pursuance of this Section is
2 evidence that he or she has done so. No employee of a facility
3 licensed under the Nursing Home Care Act, the Specialized
4 Mental Health Rehabilitation Act of 2013, ~~or~~ the ID/DD
5 Community Care Act, or the MC/DD Act shall obstruct an officer
6 or other person making service in compliance with this Section.
7 An employee of a gated residential community shall grant entry
8 into the community, including its common areas and common
9 elements, to a process server authorized under Section 2-202 of
10 this Code who is attempting to serve process on a defendant or
11 witness who resides within or is known to be within the
12 community. As used in this Section, "gated residential
13 community" includes a condominium association, housing
14 cooperative, or private community.

15 (b) The officer, in his or her certificate or in a record
16 filed and maintained in the Sheriff's office, or other person
17 making service, in his or her affidavit or in a record filed
18 and maintained in his or her employer's office, shall (1)
19 identify as to sex, race, and approximate age the defendant or
20 other person with whom the summons was left and (2) state the
21 place where (whenever possible in terms of an exact street
22 address) and the date and time of the day when the summons was
23 left with the defendant or other person.

24 (c) Any person who knowingly sets forth in the certificate
25 or affidavit any false statement, shall be liable in civil
26 contempt. When the court holds a person in civil contempt under

1 this Section, it shall award such damages as it determines to
2 be just and, when the contempt is prosecuted by a private
3 attorney, may award reasonable attorney's fees.

4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 98-104, eff. 7-22-13; 98-966, eff. 1-1-15.)

6 Section 240. The Consumer Fraud and Deceptive Business
7 Practices Act is amended by changing Section 2BBB as follows:

8 (815 ILCS 505/2BBB)

9 Sec. 2BBB. Long term care facility, ID/DD facility, MC/DD
10 facility, or specialized mental health rehabilitation
11 facility; Consumer Choice Information Report. A long term care
12 facility that fails to comply with Section 2-214 of the Nursing
13 Home Care Act, ~~or~~ a facility that fails to comply with Section
14 2-214 of the ID/DD Community Care Act, or a facility that fails
15 to comply with Section 2-214 of the MC/DD Act commits an
16 unlawful practice within the meaning of this Act.

17 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-813,
18 eff. 7-13-12; 98-104, eff. 7-22-13.)

19 Section 900. The State Mandates Act is amended by adding
20 Section 8.39 as follows:

21 (30 ILCS 805/8.39 new)

22 Sec. 8.39. Exempt mandate. Notwithstanding Sections 6 and 8

1 of this Act, no reimbursement by the State is required for the
2 implementation of any mandate created by this amendatory Act of
3 the 99th General Assembly.

4 Section 950. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

11 Section 999. Effective date. This Act takes effect July 1,
12 2015.

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